The Solicitors' Journal

(ESTABLISHED 1857.)

. Notices to Subscribers and Contributors will be found on page iii.

VOL. LXXV **Saturday, May 9, 1931.** No. 19

Current Topics.

Sir James Melville.

THE ANNOUNCEMENT of the death at the early age of forty-six, after an illness lasting for some time, of Sir JAMES MELVILLE, has evoked widespread regret among all members of the profession. A pupil of Mr. DOUGLAS HOGG (now LORD HAILSHAM), he was fortunate in the opportunity he enjoyed of handling the mass of papers that came to that extremely busy junior. A varied class of common law cases fell to Mr. MELVILLE to "devil" for Mr. HOGG, and well did he acquit himself in conducting these in court. After the war, in which he served four years with distinction, and in which he attained the rank of Major, he had, as so many another had to do, to build up afresh his practice, and he was doing exceedingly well, largely in running-down cases, when, having stood for Gateshead in the Labour interest, and been returned by a magnificent majority, he was offered by Mr. RAMSAY MACDONALD, and accepted, the post of Solicitor-General. Rarely, however, did he appear in the courts in his official capacity, for ill-health soon supervened, and he resigned and went off on a cruise in the hope of re-establishing his health, which, it is to be feared, suffered more even than he knew during those strenuous war years.

United Law Clerks' Society.

LAST WEEK we published a letter, addressed to prominent members of both branches of the legal profession, by Sir ROGER GREGORY, the President of The Law Society, who is to preside at the ninety-ninth anniversary festival of the United Law Clerks' Society, at The Connaught Rooms on Tuesday next, the 12th May. Sir ROGER says that he would ask recipients of his letter to consider for a moment how much they owed to the loyal assistance of their staff, "and to repay some part of that debt by helping those who in old age or sickness are now in need of help." This excellent body, the United Law Clerks' Society, the oldest and the largest society of law clerks in the country, was founded at a meeting of law clerks held at the Southampton Coffee House in Southampton Buildings, on the 14th April, 1832, with the primary object of encouraging thrift among those who were engaged in the profession of the law as clerks, to barristers, to solicitors, to His Majesty's judges, and in the public law offices. That the society has succeeded, perhaps even beyond the expectations of its originators, is evidenced by the fact that since 1832 benefits totalling £278,968 have been paid. Last year, says the Society's Annual Report, has been a normal year, yielding, as other years have done, numerous opportunities of extending a helping hand to members and others. One item of special interest was the cost of superannuation benefit. For the first time over £5,000 has been distributed under that head, which means that more than a hundred sick and aged law clerks are enjoying more of the comforts of life than would otherwise be possible, and at a time when they most need those comforts. Another of the Society's activities, and one of exceptional interest to-day, is the situations registers—during 1930, 130 vacancies were registered and fifty-seven were filled. Anyone, even but superficially acquainted with the very excellent and very necessary work so satisfactorily carried on by the society will willingly endorse the wish expressed by Mr. Justice LUXMOORE, at the last anniversary festival, that the society should have "continued prosperity, an increasing field for its enterprise and benevolence and a continued and prolonged life." The prolongation of this useful work of vital importance has been materially assisted in the past by donations from members of both branches of the profession, and we sincerely trust that the same keen interest in the society's work will continue, undiminished, to be practically manifested in the future.

Privacy.

TO THE January number of the *Law Quarterly Review* Professor WINFIELD contributed an extremely valuable article in which he investigated the question whether there exists in English law any remedy for an invasion of personal privacy as an independent tort. As a result of his researches he came to the conclusion that the existing *dicta* seem to incline against an affirmative answer to the question, not only in the courts of first instance but probably also in the Court of Appeal. He, however, went on to submit that social exigencies at the present day would justify the House of Lords in recognising as a tort such an invasion of personal privacy. The article was written before the decision of the House in *Tolley* v. *J. S. Fry & Sons*, but that case does not carry the question further, because the ultimate decision was that the publication complained of amounted to a libel. Professor WINFIELD's article has been followed in the April number of the *Law Quarterly* by two others, one by Professor GUTTERIDGE on the German and Swiss law on the subject, and the other by Dr. F. P. WALTON, who treats of the relevant French law. Both are extremely informative and valuable as learned contributions to comparative law. According to Professor GUTTERIDGE,

German appears to be in advance of Anglo-American law on the subject, the tendency of German judges being towards the amplification of the rights of personality by the widening of the scope of Art. 826 of the Bürgerliches Gesetzbuch, which declares any act to be unlawful which results in the infliction of damage on some other person, a provision happily described as the omnibus section of the German law of torts. Swiss law appears to be more specific, for in terms it enables a person who has been injured in his personal relations owing to the wilful or negligent act of another to claim not only compensation in respect of his pecuniary loss, but also, in certain cases, a payment by way of moral damages. In French law the right of privacy has also been admitted, but the courts have preferred to say that there has been a violation of the right of property. This is certainly not so logical as the Swiss law, although, apparently, equally effective. Perhaps some day English law will approximate more closely to that of our Continental neighbours in the endeavour to protect the right to privacy, which most men hold dear, as well as the right to property, although it may be some time before we reach that desirable goal.

Mystery Deaths and Workmen's Compensation.

UNEXPLAINED ACCIDENTS, deaths under mysterious circumstances, always occasion difficulty when they give rise to claims under the Workmen's Compensation Acts. The decision of the House of Lords in *Simpson (now Johnston)* v. *London, Midland & Scottish Railway Co.* might be regarded as solving the difficulty in a case of this kind by a combination of accepted principles as to (*a*) the legal meaning of "arising out of and in the course of the employment," and (*b*) the competence of the county court to decide the issue of fact. The facts were, in brief, that a railway guard was instructed to travel by train to a place at which he was to take charge of another train. He travelled in an empty third-class compartment. He was found lying unconscious in a tunnel with a fractured skull and died without regaining consciousness. The window of the compartment in which he had travelled was found to be open. The First Division of the Scottish Court of Session had reversed the decision of the arbitrator awarding the widow compensation, on the ground that none of the possible explanations as to how the man came to be lying in the tunnel passed outside the sphere of surmise into that of reasonable inference. Lord DUNEDIN, in delivering the House of Lords' finding in favour of the widow, referred to a principle stated by Lord KINNEAR in another case that "it is not necessary to show that at the moment the accident happened the workman was engaged in some particular duty, if it happened while he was in the ordinary course of his employment, and while he was in a place where his employment required him to be." The arbitrator's decision could be recalled if there was an error in law, or if there was a finding of fact to which no reasonable man ought to come; but if on a balance of probabilities he drew the inference from the facts that the death was an accident arising out of and in course of employment, that was an inference that could not be set aside merely because the evidence was circumstantial, and there was no certainty as to how the accident happened. For, as his lordship pointed out, there is no such thing as absolute certainty, even when there is direct testimony, and any conclusion therefore, if analysed strictly, must be one based on the balance of probabilities.

Road Traffic: Drivers' and Conductors' Licences.

LICENCES TO act as drivers or conductors of public service vehicles are, under the Road Traffic Act, 1930, to be granted by the commissioners for the traffic area in which applicants reside. By s. 82, any applicant aggrieved by their refusal or failure to grant a licence, or by their suspension, revocation or limitation of a licence, may require reconsideration of his application by the commissioners; or may forthwith appeal against the commissioner's decision to a court of summary jurisdiction. There is the same appeal if the applicant is dissatisfied with the decision given on reconsideration by the commissioners. There is a good deal of ignorance of the machinery of appeal. One text book on the new Act says: "It is submitted that on grounds of 'natural justice' the commissioners are entitled to be heard by the court of summary jurisdiction in support of their decision." "Natural justice," is a good horse, but "statutory right" is a better. The case is provided for: "The procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to all such proceedings," r. 58 of the Summary Jurisdiction Rules, 1915, made under s. 40 (1) of the Criminal Justice Administration Act, 1914, which empowers the Lord Chancellor to make rules for "regulating the procedure in any legal proceedings which under any Act are to be taken before any police or stipendiary magistrate or other court of summary jurisdiction." The dissatisfied applicant must, therefore, make a complaint to a court of summary jurisdiction, upon which a summons must issue to the commissioners, calling upon them to show cause why their decision should not be varied, and naming a time and place for the hearing. At that time and place a trial of the issue between the parties will take place in the usual form.

The Dangers of High Heels, and others.

THE DECISION of a court in Hanover that, if a lady chooses to wear high heels, with, presumably, bases of a square inch or less in area, and such a heel catches in a hole while she is walking, and she falls down in consequence and is injured, she has no one but herself to blame, will no doubt remind our readers of *Fairman* v. *Perpetual Investment Society* [1923] A.C. 74. In that case, the plaintiff's heel caught in a hole on a tenement staircase out of repair, and she was thrown down and injured. She sued the landlord of the block of flats, but SHEARMAN, J., found that the hole was obvious to anyone walking up and down the stairs with reasonable care, and not in the nature of a trap, and so gave judgment for the defendant. This judgment was affirmed in the Court of Appeal and the House of Lords, which in the process over-ruled *Miller* v. *Hancock* [1893] 2 Q.B. 177, long a stumbling-block of another kind. Since the decision was based on the fact that the plaintiff exercising reasonable care could have seen and avoided the hole, the question whether the stairs should have been safe for persons with unusual footgear was not fully discussed, and Lord BUCKMASTER in a dissenting judgment observed (p. 84) that the plaintiff's heels, though high, were not unusually so. It seems a fair inference from the case, however, that one who wears boots or shoes of a particular or unusual pattern must be vigilant to see any defects in a road or staircase which may consequently endanger him or her, and this appears to accord with the decision in the Hanover case. The doctrine might also apply to one who used crutches, requiring him to see that he placed them safely before he propelled himself with them, and on the same principle a blind person would have to take such added risks as his misfortune imposed on him. The decision that tenement stairs need not be made safe for little children (*Dobson* v. *Horsley* [1915] 1 K.B. 634), is on a different footing, and is one which Parliament might well have over-ruled. Neither at the time, however, nor later, when the Housing Acts were consolidated in 1925, was this done. The question of care on the roads to people with infirmities appears to have stood still since *Boss* v. *Litton* (1832), 5 C. & P. 407. Perhaps, however, it may fairly be implied from the motorist's statutory obligation to sound his horn, that he has the right to expect a pedestrian to hear him. If so, a deaf man who crosses a road takes a special risk. Mr. BURNS has lately described main roads as unfenced railways, and sooner or later it would seem that we shall have to establish sanctuary crossings to them, where the motorist has a positive duty to avoid collision, as in Paris.

Criminal Law and Practice.

INTEMPERATE EXPRESSIONS.—Police officers are rarely unfair intentionally; sometimes, however, in discoursing upon the criminal record of a convicted prisoner, they "let themselves go," and, without realising the true meaning of words, fall into serious exaggeration.

The Recorder of London had occasion last week to reprove a detective who described a prisoner as "a wilful, persistent, plausible and cunning criminal of the worst possible type." His offence was obtaining food by false pretences, after previous convictions. The Recorder very properly asked: "How can the man be the worst criminal? What would you call a murderer or a ravisher? . . . Don't you mean he is a persistent criminal of a trivial type?"

The best police witness is matter-of-fact in style, and never becomes oratorical. We have heard a policeman justly admonished for referring to a small boy in a children's court as "a shocking little blackguard." A police constable who described a man as "hopeless" was asked by the magistrate whether he really felt justified in applying that term to any man. And a third officer who, when asked how he knew the gentleman was annoyed by the prostitute, replied: "If looks could have killed, the woman would not be here this morning," was promptly told not to indulge in that kind of thing.

If witnesses could only realise it, the simple, unadorned tale, shorn of all rhetoric, carries the most weight and is the least open to adverse comment, ridicule, or even effective cross-examination.

Perhaps the journalist has something to answer for. It may be that the policeman with the picturesque style gets it from the daily press. Not many weeks ago, the racing correspondent of a great paper wrote of the finish of a close race, that a few yards from the winning-post a jockey *literally* lifted his horse to win by a short head.

MAKING CRIME UNPROFITABLE.—Many beggars are of a class who do not mind going to prison occasionally; if they are homeless, or accustomed to life in a common lodging-house, prison is hardly less comfortable than ordinary daily life, save for deprivation of liberty, tobacco and intoxicating liquor. If they have done well at begging and have been prudent enough to save their gains, they can feel that their chosen profession has justified itself. Mr. ARTHUR GARDNER, in his recent book "Prisoner at the Bar," gives some remarkable instances of beggars whose earnings are both considerable and quickly gained. The Bow Street magistrate who ordered, in the case of a beggar whom he sentenced to three months' imprisonment, that £7 out of nearly £18 found on him should be used for his maintenance while in prison, was making the punishment suitable to the particular offence. This beggar, at all events, cannot feel that all ill-gotten gains are safe. The power so to act, little used, is contained in s. 8 of the Vagrancy Act, 1824, and applies to all vagrants under that Act: Any money found upon or in the possession of any offender may be applied towards the expenses of apprehending, conveying to the house of correction, and maintaining him therein; and if money sufficient for these purposes be not found, the justice may order his effects to be sold, and so applied, and the surplus to be returned to the offender. Since the passing of the Criminal Justice Administration Act, 1914, the offender is no longer liable to pay the cost of his conveyance to prison; but there is still no reason why he should not be made to pay for his maintenance, when the facts justify it. Indeed, to do so is to depart from stereotyped practice and to show that prison is not the only possible punishment available. Lack of originality and discrimination in prescribing punishments is often laid to the charge of the Legislature. This is one small exception to rule. It was Dr. CHARLES MERCIER who wrote, in "Crime and Criminals": "A little thought, a little ingenuity, might make punishments far more efficacious by adapting them more suitably to the character of the crime."

Restrictions on Testamentary Freedom.

THE Wills and Intestacies (Family Maintenance) Bill recently (20th February, 1931) introduced into the House of Commons, by Miss RATHBONE, Member for Blackburn, raises once again the question whether the unrestricted right enjoyed by testators under the law of England for nearly a century to dispose of all their real and personal property, as they please, by will, is or is not to be maintained.

The history of the present measure may be stated in a few sentences. Section 46 (1) (i) of the Administration of Estates Act, 1925, charged the residuary estate of an intestate with the payment of a certain net sum to the surviving husband or wife. Fired by this irruption on the part of the legislature into the English law of intestacy, by Scots and colonial analogies in the realm of the law of testamentary disposition, and by the cases that undoubtedly exist of great hardship caused to widows and children by the unjust exercise of testamentary freedom, Lord ASTOR, on the 16th May, 1928 ("Hans. H. L.," Vol. 71, col. 37), moved in the Upper House, for the appointment of a select committee:—

> "to see whether a change is necessary in the laws governing testamentary provision for wives, husbands and children, based on the experience of Scotland, Australia and the other portions of the Empire."

In the discussion of this motion, the Lord Chancellor for the time being (Lord HAILSHAM), two of his predecessors, Lords HALDANE and BUCKMASTER, and Lord MERRIVALE, took part, and eventually the motion was, by leave, withdrawn, in view of the unanimous opinion of the legal Peers that, whether any change in the law of England on the subject was desirable or not, no good purpose could be served by such a "roving inquiry" as the appointment of a select committee would entail. On 6th March, 1929, Lord ASTOR introduced a Wills and Intestacies (Family Maintenance) Bill of his own. It was read a first time. In her speech, in moving the second reading of the present Bill, Miss RATHBONE stated that, if her Bill was read a second time, its promoters hoped that it would be referred to a joint select committee of both Houses, as it was Lord ASTOR's intention to introduce it almost immediately into the House of Lords. Eventually, after a long debate, the desired second reading was accorded.

It would serve no useful purpose to analyse Miss RATHBONE's Bill in detail, for it may safely be predicted that, in its present form, it will not become law. There may, however, be some advantage in a brief statement of the nature of the remedy by which the Bill seeks to counteract the unjust use of unfettered powers of testamentary disposition.

Three distinct attitudes towards the question are to be found in comparative law.

The testator may be left, as the law of England now leaves him, free to dispose of his entire real or personal property as he thinks fit, subject only to the possibility of his will being impeached on the ground of undue influence.

Or, the law may itself make definite provision for the surviving spouse and children of a marriage and restrict the power of disposition by will to the residue. Scots law, founded as it was on Roman and French law, is, of course, the palmary instance of this system. Most modern Continental codes contain analogous provisions.

It would, however, be quite a mistake to suppose that, under the Scots system, the distribution which the law allows invariably, or even usually, takes place. This point was well dealt with by Lord HALDANE in the debates on Lord ASTOR's motion for a select committee ("Hans. H.L.," Vol. 71, col. 48). After enumerating the various rights included in the Scots provision—the legitim, or "bairn's part" of the children, the *jus relictæ* of the widow, and the *jus relicti* of the husband, he proceeded as follows:—

> "But it almost never happens when people marry with any substantial property, that these rights are left intact.

Every marriage settlement has a common form put in, a renunciation of *jus relictæ* on the part of the wife, and exclusion of legitim on the part of the children. The courts will not estimate the quantum. They know better. They know what would happen if they tried. But they do give effect to these provisions, and almost never when there is any substantial property deal with, is there a provision which the children can claim as of right."

In Quebec, also, it is customary for conveyancers in drafting marriage contracts to exclude the legal rights of widows and children.

The third existing alternative is to leave the power of the testator himself unfettered but to give jurisdiction to a court to interfere where his family is suffering hardship through the operation of his will.

This system was inaugurated by New Zealand in 1900, and has been followed by the legislatures of New South Wales, Victoria, South Australia, Queensland, Tasmania and British Columbia.

The New Zealand Family Protection Act, 1908, s. 33 (1), in which the original provisions of the Act of 1900 are now reproduced, indicates the general nature of the procedure :—

> "If any person . . . dies leaving a will and without making therein adequate provision for the proper maintenance and support of the testator's wife, husband or children, the court may at its discretion, on application by or on behalf of the said wife, husband or children, order that such provision as the court thinks fit shall be made out of the estate of the testator for such wife, husband or children."

Under this enactment, the *onus* of making out a case for the intervention of the court is thrown on the party complaining of the operation of the will.

Miss RATHBONE'S Bill would introduce yet a fourth system, of which, it is to be feared, multiplicity of legal proceedings would be a marked characteristic. The Bill provides for a "priority payment," analogous to that created by s. 46 of the Administration of Estates Act, 1925, in favour of a surviving spouse and requires the personal representatives of the deceased to set aside, out of the net estate, a sum sufficient to meet that payment and the other benefits secured to the surviving spouse and children. It may be pointed out in passing that the analogy presented by s. 46 of the Administration of Estates Act, 1925, is not convincing. A priority payment in case of intestacy may be defended on the ground that it is the type of provision that the intestate would have put into his will had he made one. It is quite a different thing to say that such a provision should be inserted by statute in a will when a testator, having presumably weighed all the circumstances, has omitted it. But that by the way. The working out of this procedure would be complicated and dilatory and would inevitably involve applications—in some cases numerous applications—in court. The same observation arises with regard to contracting out, for which the leave of the court is to be necessary, to the power of the court to annul the rights of the surviving spouse and children in certain cases, and to the impeachment of voluntary dispositions *inter vivos* to the prejudice of the statutory trusts. Each of these provisions would add new and manifold terrors to succession, if not to death.

If the long established law of England as to the freedom of testation is to be altered, the change should be made not by a private member's Bill but by a Bill prepared by government draftsmen and introduced on the responsibility of the government of the day.

Should any change be called for, the model offered by recent Dominion legislation is deserving of consideration. The following verdict has been pronounced by a New Zealand judge on the Family Protection Act, 1908, in force in that Dominion :—

> "As the law stands, and as it has been administered, it is a law which, in a very small percentage of the total number of testamentary dispositions, has made a very modest deduction from the otherwise plenary authority of the subject, but, within that very small percentage of instances, it has afforded the appropriate remedy in a very large number of cases of injustice or inadvertence."

(*Welsh* v. *Mulcock*, 1924, cited *Journal* Comp. Leg. (N.S.) 1930, p. 22.)

Treasure Trove.

THE recent publication of the effect of a Treasury minute adopted a year ago practically restores the finder to the position he was in in the earliest times. By the common law the finder of any chattel has a good title against all the world except the true owner, and this, according to BRACTON, was originally the case with regard to treasure trove, i.e., objects of either gold or silver which were hidden in the earth or some other private place and of which the owner was unknown. Afterwards, however, it was adjudged expedient for the purposes of state and particularly for the coinage that such hidden treasure should belong to the King, and GROTIUS mentions that this had grown to be *jus commune, quasi gentium*, for it was recognised law not only in England, but in Germany, France, Spain and Denmark. So much was the practice of hiding valuable treasure followed, that the penalty for concealing the finding of it was at one time death, though later reduced to fine and imprisonment as a common law misdemeanour. The essence of the offence was (and still is) wilful concealment with the knowledge of the nature of the metal. So where A ploughed up some large gold rings of considerable value and, thinking they were brass, sold them to B for 5s. 6d.; B discovered they were gold and offered them as such to a jeweller, but subsequently stated he had sold them to C for brass; and C having sold them as gold, B and C together went to a bank and together deposited part of the proceeds of sale; it was held there was evidence upon which B and C might be convicted for knowingly concealing treasure trove: *R.* v. *Thomas & Willett* (1864), 33 L.J., M.C. 22. The prisoners in this case were imprisoned for non-payment of the fine imposed and were released at the end of a year: Jervis's "The King's Coroner," Vol. II, 93.

The duty of inquiring as to treasure trove found and who were the finders was first imposed by statutes on coroners in 4 Edw. I, and has been continued by s. 36 of the Coroners Act, 1887.

Formerly treasure trove might also be inquired into at the sheriff's tourn.

Most of us in our early student days were told that when treasure trove was reported the Treasury would allow the finder the greater part of the value. This was in accordance with a Treasury minute of 1886. Under the present minute the finder of such objects, who promptly reports the finding to the coroner or police, is to receive the full value of the objects, if retained for the Crown or a museum; if not considered to be sufficient interest for the Crown to insist on its rights, the finder may retain them, or arrangements will be made for the British Museum to sell them on his behalf. To obtain the benefit of this ruling, however, it is still necessary for the finder to report the find promptly, and if there is any dispute as to the persons who actually found, then the verdict of a coroner's jury will apparently be conclusive, but the coroner has no authority to determine whether any one other than the Crown has a title against the finder: *Attorney-General* v. *Moore* [1893] 1 Ch. 676. In the latter case it was admitted the Crown's title might be displaced by showing a grant of franchise of treasure trove to a subject, e.g., the lord of the manor. Where such is the case the Treasury minute would not profit the finder. On the other hand, it is conceived it would not be a criminal offence to conceal the finding of treasure trove from the person entitled to it under a grant of franchise.

Only articles of gold and silver can be treasure trove, and to warrant them being ranked as such the evidence must establish a presumption, unrebutted by evidence to the contrary, that they were originally hidden by the owner in the soil or some building and not merely lost or abandoned by the owner on land or cast into the sea. In the case of *Attorney-General* v. *British Museum Trustees* [1903] 2 Ch. 598, which concerned valuable gold ornaments ploughed up near the shore of Lough Foyle in the north of Ireland, and subsequently sold to the British Museum, the ingenious defence was set up that the articles were originally thrown into the sea as a votive offering by some Irish sea king or chief to some Irish sea god between B.C. 400 and A.D. 700, but was dismissed as fanciful and unsupported by evidence that within the period in question the sea had ever flowed over the spot where the articles were found, or that votive offerings of the sort suggested were ever made in Ireland, or had ever been made in Europe since the bronze age. It was further held that a mere grant of franchises was not sufficient to pass a right to treasure trove without express mention.

Company Law and Practice.

LXXVI.

DECLARATION OF CHARGE IN DEBENTURE HOLDERS' ACTIONS.—II.

LAST week we were considering the declaration of charge in debenture-holders' actions, and we saw that where the company is in liquidation at the time when the judgment is pronounced, the declaration will not be made unless the liquidator consents; we also saw that, where a motion for the appointment of a receiver is treated as the trial of the action and judgment given, no declaration is, in the ordinary way, included in such judgment.

The omission of the declaration of charge may cause trouble or delay to a plaintiff in a case where it is desired that there should be an immediate sale of the property charged by the debentures, or some part thereof. Section 91 of the Law of Property Act, 1925, confers upon the court a power to order a sale at any stage in foreclosure proceedings; but Ord. 51, r. 1B is the rule which is frequently acted upon in debenture-holders' actions where an immediate sale is desired—it is to the following effect: "In debenture-holders' actions where the debenture-holders are entitled to a charge by virtue of the debentures, or of a trust deed, or otherwise, and the plaintiff is suing on behalf of himself and other debenture-holders, and where the judge in person is of opinion that there must eventually be a sale, he may in his discretion direct a sale before judgment, and also after judgment, before all the persons interested are ascertained, whether served or not."

The first point to be observed is that the rule applies only where the debenture-holders are entitled to a charge by virtue of the debentures; obvious, you may say, for the action itself, in the vast majority of cases, depends upon the existence of the charge; but the materiality of this in this connexion lies in the fact that it must be shown that the debenture-holders are entitled to this charge, and either it will have to be proved, or it must somewhere appear to have been proved, before a sale can be ordered under this rule. In the case of a sale before judgment, proof will be necessary, but, in the case of a sale after judgment, before all the persons interested are ascertained, a declaration of charge in the judgment establishes the fact of the charge. In practice, the date of the certificate of the Master appears to be treated as being the time when all the persons interested are ascertained —"before the certificate of the Master is made," says MAUGHAM, J., in *Re Sandwell Park Colliery Co.*, *infra*, at p. 283; though it seems doubtful whether it could be said that all the persons interested had been ascertained before the certificate had become binding, it is hardly material for this purpose to determine whether this is so or not.

It will also be noticed that this rule applies only to representative actions, and that where a holder of all the debentures of a class, or the holder of a sole debenture is suing, advantage cannot be taken of this rule, though it may be possible to get an immediate order for sale in some other way (*Parkinson* v. *Wainwright & Co.*, 64 L.J. Ch. 493).

Apart from this question with regard to an immediate sale, it does not seem to matter to a plaintiff in a debenture-holders' action whether or not the judgment contains a declaration of charge; the declaration may conceivably, when present, prevent the raising of objections to the debentures, though it is not easy to envisage a case in practice where this would actually occur.

A decision of MAUGHAM, J., in connexion with a sale by a receiver for debenture-holders, though it is not directly concerned with the declaration of charge, may conveniently be noted here. This is *Re Sandwell Park Colliery Co.* [1929] 1 Ch. 277—a receiver was appointed by the court, and the usual judgment was pronounced on the application for his appointment, which was by consent treated as the trial of the action. The receiver entered into a contract for the sale of some of the property comprised in the security, such contract being expressed to be subject to approval and sanction by the court; and it was provided that in the event of its not being so approved and sanctioned, it was to be void, n which event the purchaser was to be entitled to be repaid his deposit, but without interest thereon. Completion was fixed for 31st December, 1927; but no order sanctioning the contract was obtained before that date, though the title was accepted by the purchaser.

MAUGHAM, J., after stating that such a contract ought, generally, to contain a clause stating the date by which the approval of the court should be obtained, held that, in a case where no date was stated, the approval must be obtained within a reasonable time, and that in the case before him a reasonable time could not be later than the date fixed for completion. The reason for this view was that the contract was one made by a person as an officer of the court who himself had no title to the property; and that therefore the clause in the contract requiring the approval of the court was a condition precedent which must be satisfied before the contract would be binding as a contract for sale. Accordingly his lordship held that the contract was at an end, and that the purchaser was entitled to a return of his deposit, together with the interest earned by it.

In his judgment in this case, MAUGHAM, J., made some observations on Ord. 51, r. 1B, which show, to those who may not have realised it, that an order for sale can be obtained very expeditiously thereunder in a proper case. "In these days," says his lordship at p. 283, "there is no need for delay, if the parties concerned are expeditious and bring satisfactory evidence before the court. In an urgent case counsel can apply for an early hearing of the matter, and I have known more than one case in which the sanction of the court to a sale in a debenture-holders' action has been obtained within a very few days after the issue of the writ."

(To be continued.)

A DEAF JURYMAN.

While a jury were considering their verdict in a case at the London Sessions on 5th May, the foreman informed the Deputy Chairman (Sir Herbert Wilberforce) that one of the jurymen was deaf and had not heard the evidence. Sir Herbert discharged the jury from giving a verdict, remarking that it was unfortunate that the fact had not been mentioned before. The court then proceeded to re-try the case with a new juryman in the place of the one who was deaf.

A Conveyancer's Diary.

A Point in the Construction of Wills: Gift to "the Children of A and B."

It is somewhat of a relief to get away from the "New Property Acts," and this week I propose to call attention to a recent decision on the construction of a will which has some points of interest.

In *Re Dale; Mayer* v. *Wood* [1930] 1 Ch. 357, a testator gave all his residuary estate to his trustees upon trust to pay the income thereof to his wife for life, and after her death upon trust for sale and to divide the proceeds into two equal parts, one of which should be paid to his son W. J. Dale and the other was settled upon his daughter M. A. Wood and her children. By a codicil the testator, after reciting that since the date of his will he had purchased a freehold house, devised the same on trust for his wife for life, and on her death for his sister-in-law E. Bridger for life, and after her death upon trust for sale, "and to divide the proceeds thereof equally between the children of my son W. J. Dale and my daughter M. A. Wood."

The testator's son W. J. Dale had one child, a son, and his daughter Mrs. Wood had six children. W. J. Dale and his son were both dead, as also was Mrs. Wood.

The widow and E. Bridger having died and the property mentioned in the codicil having been sold, the question was, who were entitled to the proceeds?

The answer to that question depended upon the construction of the expression "the children of my son W. J. Dale and my daughter M. A. Wood." The provisions of the will were not material except as affording a guide to the construction of the codicil.

As pointed out by Luxmoore, J., there were three possible constructions. First, that the gift was, in the events which had happened, to the personal representatives of the one child of W. J. Dale and to the personal representatives of Mrs. Wood in equal shares; the second construction was that the gift was, in the events which had happened, divisible into seven shares, one to each of the six children of Mrs. Wood or their personal representatives and the remaining seventh to the personal representatives of the son of W. J. Dale, while the third construction was that one-half share went to the personal representative of the son of W. J. Dale and the other half between the six children of Mrs. Wood or their personal representatives.

The learned judge adopted the second of these constructions, relying upon the context which he found in the will and codicil and the surrounding circumstances as indicating that construction as carrying out the intention of the testator.

It has long been recognised as a rule of construction that a gift to "the children of A and B in equal shares," means a gift to B and the children of A equally. That is to say, the word "of" will not be supplied before "B."

In *Lugar* v. *Harman* (1786), 1 Cox 250, there was a bequest of residue "to be divided equally amongst all and every the child and children of my late cousin Edward Lugar and my cousin Philip Fearis and their lawful representatives." Sir Ll. Kenyon, M.R., decided that Philip Fearis and the children of Edward Lugar took in equal shares. He said that the words as they stood had a plain grammatical sense, and that to give the residue to the children of Edward Lugar and the children of Philip Fearis would be introducing the word "of" before "my cousin Philip Fearis."

In *Mason* v. *Baker* (1856), 2 K. & J. 567, however, Sir W. Page Wood, V.-C., took a different view. The gift there was to "all the children of my brother Richard Baker and my sister Mary Mason to be equally divided between them." The learned judge distinguished *Lugar* v. *Harman* on the ground that in that case as Edward Lugar was dead and Philip Fearis was alive, the construction adopted there was a reasonable one, whereas in the case before him he could see nothing on the face of the will to make it probable that the testatrix meant to treat her sister Mary differently from her brother Richard. The children of Mary and the children of Richard therefore took in equal shares.

The learned Vice-Chancellor pointed out that whilst one construction required the introduction of the word "of," the other equally required the introduction of the word "to" in the same place. Thus "to the children of A and B" might mean "to the children of A and of B" or "to the children of A and to B."

On the other hand, in *Re Walbran* [1906] 1 Ch. 64, Joyce, J., followed *Lugar* v. *Harman*. In that case there was a gift of proceeds of sale "to be equally divided between the children of F. M. Walbran . . . and J. C. Walbran . . . or their heirs." The learned judge expressed the opinion that "notwithstanding anything that may have been or may be said to the contrary, I do not doubt that the proper grammatical meaning of the expression "the children of A and B"——the preposition "of" not being repeated before B, and A and B not having or being capable of having children together—is, the children of A and the individual B, not his or her children." In that he seems to differ from the Vice-Chancellor in *Mason* v. *Baker* and agree with the Master of the Rolls in *Lugar* v. *Harman*. The learned judge came to the conclusion however that the testator intended the property for J. C. Walbran and the children of F. M. Walbran, for, although both were alive, and of the same relationship to the testatrix, the latter had deserted his children or at any rate was living apart from his family. It is clear, therefore, that he regarded the surrounding circumstances as of first importance, indeed the deciding factor. But he held that J. C. Walbran took one-half and the children of F. M. Walbran the other half between them, thereby differing from the result in *Lugar* v. *Harman*.

In *Re Harper* [1914] 1 Ch. 70, there was a gift "to be divided equally between the unmarried daughters of my brothers-in-law Dr. J. Harper and Dr. A. S. Grant equally." Again the decision turned upon the facts. It appeared that Dr. Harper was a brother-in-law of the testatrix and had five daughters, three of whom were unmarried, whilst Dr. Grant had only one daughter, who was four years old at the date of the will. Sargant, J., held that Dr. Grant and the three daughters of Dr. Harper were entitled to a fourth share each, in which he followed the division held to be right in *Lugar* v. *Harman*, and not that adopted in *Re Walbran*.

The latest case is *Re Prosser* [1929] W.N. 85. There a testator devised certain freehold property (in the events which happened) to be "equally divided between the children of my brothers Frederick and John Prosser." Following *Re Walbran*, Clauson, J., held that the property devolved in moieties, one to John and the other to the children of Frederick. The learned judge in effect said that he could not distinguish the case before him from *Re Walbran*, and must therefore follow the decision in that case.

In the instant case Luxmoore, J., decided in favour of the construction adopted in *Mason* v. *Baker*. Without dissenting from the general rule as laid down in *Lugar* v. *Harman*, his lordship held that there was sufficient in the context afforded by the will and the surrounding circumstances to compel him to hold that by the direction to divide "equally between the children of my son W. J. Dale and my daughter M. A. Wood," the testator meant all his grandchildren by his son and by his daughter, and did not intend to exclude his grand-children by his daughter or to benefit his daughter to the exclusion of her children.

It is needless to point the moral of these cases, but I may remark that it seems strange that such expressions as that which gave rise to the decision in *Re Dale* should continue to appear in wills notwithstanding the long list of authorities in which the ambiguity of similar language has been pointed out and been the occasion of decisions based not upon the words of the will itself, but upon what are called the "surrounding circumstances."

Landlord and Tenant Notebook.

Penal Rents.

When drafting or approving a lease providing for a penal rent, regard should be had to two possible sources of danger. One is the rule by which effect is not given to provisions for a penalty in any contract unless they represent a genuine attempt to assess damages. This concerns those acting for the landlord. From the tenant's point of view, it is important that the language used should make it quite clear whether conditional permission is given to infringe some restriction, or whether the grantor is being provided with an additional weapon.

In either case, the whole instrument will be considered. In an action relating to the sale of goods, Bramwell, B., expressed the first-mentioned principle as follows: "For if the whole agreement is such that the court can see the sum is a penal sum, it must be so treated; on the other hand, if it is not a penal sum, it would be incorrect to treat it as a penalty merely because the parties have called it so in the agreement" (*Betts* v. *Burch* (1859), 7 W. R. 546). An important consideration is whether the sum payable is to be paid on the breach of one or one kind of covenant only. In the Scottish case of *Lord Elphinstone* v. *Monkland Iron & Coal Co.* (1886), 11 A.C. 332, the tenants of mining property had the right to deposit slag on certain land and had agreed to pay at the rate of £100 per acre, if not removed by a certain date; this, as it referred to a single obligation, was held to be an enforceable arrangement and not a penalty, although it had been so described in the lease.

Provisions of this kind frequently occur in agricultural leases, and it is now important to bear in mind, in such cases, the Agricultural Holdings Act, 1923, s. 29, which permits only four kinds of penal rents in cases to which it applies, and these must comply to the requirement above mentioned. Older decisions show how difficult it may be to get away from the border-line. In *Rolfe* v. *Peterson* (1770), 2 Bro. Parl. Cas. 436, the lease provided that, if any land not tilled in the previous twenty years should be converted into tillage the tenant should pay £5 per acre more for that land. Being sued, he applied for proceedings to be stayed and claimed that his treatment had in fact increased the value of the land, but the Court of Chancery refused to interfere. This decision was followed in *Jones* v. *Green* (1829), 3 Y. & J. 298. The case of *Greenslade* v. *Tapscott* (1834), 3 L.J. Ex. 328, turned rather on the meaning of the word "occupation" than on the question of penalty; the lease contained a covenant against alienation, and provided for extra rent if any of the property should be occupied by other parties; the tenant, as was customary, had allowed strangers to raise potato crops on part of the premises, and it was held that he was liable for the additional rent. In *Pollitt* v. *Forrest* [1847] 11 Q.B. 949, an action in replevin, the lease contained a tenant's covenant not to sell hay off the premises "under a penalty of" 2s. 1d. per yard, recoverable by distress, and it was held that this gave the landlord a licence to distrain. But in *Willson* v. *Love* [1896] 1 Q.B. 626, there was provision in the lease for "an additional rent of £20 for every acre of pasture converted into tillage, and an additional rent of £3 per ton by way of penalty for every ton of hay and straw sold off the premises," during the last twelve months, "provided also" that for every ton of hay or straw so sold off the lessees should bring an equivalent of manure on the land. The use of the word "penalty" was again held to be not conclusive; but on evidence being called to show that there was a difference in manurial value between hay and straw amounting to some 4s. or 5s. per ton, the provision was held to be unenforceable and the claim satisfied by the amount paid in.

In considering whether a penal rent clause amounts to conditional permission, the judgment of Sugden, L.C. (1842), in *French* v. *Maule*, 2 Dru. & War. 269, can be usefully referred to, for it reviews at some length a large number of older authorities. The main consideration is expressed by the learned Lord Chancellor to be as follows: "The question for the court to ascertain is, whether the party is restricted by covenant from doing the particular act, although if he do it a payment is reserved, or whether according to the true construction of the contract its meaning is that a party should have a right to do the act on payment of what is agreed to be an equivalent." In that case, an injunction was granted to restrain the burning of land, although the covenant which prohibited this concluded with the words "under a penalty of £10 per annum to be recovered as the reserved yearly rent." Generally speaking, a penalty added to a covenant means merely an additional remedy; the tenant is in a better position if the extra amount is provided for in the reddendum, showing that what was contemplated was "one rent in one event, another rent in another set of circumstances."

In *Barret* v. *Blagrave* (1800), 5 Ves. 555, a covenant against selling wine, etc., binding upon the tenants of a shop near Vauxhall-gardens, and made for the benefit of the proprietors of those gardens, was held to be enforceable by injunction, the prohibition being: "Upon penalty of forfeiture of the lease and £50 per month." In *Doe d. Antrobus* v. *Jepson* (1832), 1 L.J., K.B. 154, hay was not to be sold off the premises, and a penalty of £5 per ton was provided for, but it was held that a proviso for re-entry on the breach of any covenant could be enforced. And although the added rent was provided for in the reddendum in *Weston* v. *Managers of the Metropolitan Asylum District* (1882), 9 Q.B.D. 404, C.A. ("... and a like yearly rent of ... in case any of the trades, occupations, etc., hereinafter covenanted not to be carried on, etc."), and although the proviso for re-entry referred not only to rent and breaches of covenant, but also specifically to the additional rent, it was held that the effect was to give the landlords an option. It was impossible to say that the reddendum cut down the forfeiture clause or was inconsistent with it.

Our County Court Letter.

WIVES' CLAIMS TO HUSBANDS' ASSETS.

The above subject has been considered in two recent cases. In *Rogers* v. *W. H. Meguyer: P. K. Meguyer*, claimant, at Cheltenham County Court, the plaintiff had levied execution on certain furniture, which was claimed by the defendant's wife. Her case was that all the defendant's goods had been sold a year previously, and that those seized had been bought by herself (on the hire-purchase system) with money from her parents. The defendant's evidence was that the furniture had been insured in his wife's name, but he explained the recent date of the policy on the ground that it was in substitution for an earlier policy, though he could not recollect the name thereon. The plaintiff contended that the goods seized were bought with the defendant's money, and it was pointed out that (1) on execution being levied, the goods were first claimed by the Western Enamel Ironworks Company Limited, as having been taken in part satisfaction of a claim against the defendant and his wife; (2) the latter were the sole directors of the company, which was formed in April, 1930, the defendant having sixty shares and his wife forty; (3) on a previous execution (in respect of a dress bill of £12 8s. 6d. for which judgment had been obtained against the wife) the defendant had written to the court that the furniture was claimed by the above company; (4) the company subsequently withdrew its claim to the furniture, though there was no evidence as to whether the dressmaker was paid. His Honour Judge Kennedy, K.C., observed that (1) on the face of the receipts, the claimant appeared to have paid for the furniture, but she had been prevented from giving evidence by illness; (2) the receipts were not evidence, and the claim rested upon the defendant's testimony only, which was

insufficient. Judgment was therefore given for the execution creditor, with costs.

In *In re Ashworth* at Manchester County Court, the trustee in bankruptcy applied for a declaration that £1,500, paid to the wife in February, 1930, was void as a settlement made within two years of bankruptcy. The evidence was that in February, 1927, the bankrupt sold a house for £3,000 and offered half the proceeds to his wife but she allowed the amount to remain in the bank account of the husband, who held the money at her disposal, to be withdrawn when and how she liked. The trustee contended that the bankrupt intended this to be an absolute gift, which had never been carried out, as the gift was not perfected by delivery. The wife's case was that the date of payment was not the date of settlement, which had taken place in 1927—more than two years before the bankruptcy. His Honour Judge Leigh held that (1) the gift was imperfect, which of itself was insufficient to create a trust; (2) there was evidence, however, that the wife had subsequently asked for the money to be kept at her disposal, to which the husband agreed; (3) this transaction could not be dissociated from the previous one, and the two together constituted a valid gift; (4) the wife had thus acquired a beneficial interest in the £1,500 in 1927, and the trustee's contention failed. The motion was therefore dismissed, but the circumstances had necessitated investigation, and the costs were ordered to be paid out of the estate.

Practice Notes.

THE EXPUNGING OF PROOFS IN BANKRUPTCY.

The grounds for the above were recently considered in *In re Radin*, at Chelmsford County Court, in which the bankrupt's father applied that the proofs of two creditors should be expunged (and that his own proof be substituted) under the Bankruptcy Act, 1914, 2nd Sched., r. 26. The applicant's case was that (*a*) he had bought the respective debts (amounting to £376 15s. and £56 13s.) for £95 5s. and £10, (*b*) the bankrupt was unable to pay a dividend of 10s. upon liabilities of £608 10s. 6d., and his father was applying (out of natural love and affection) to assist the bankrupt in obtaining his discharge. It was denied that the bankrupt was using his father as a cloak, but the assistant official receiver pointed out that (*a*) the bankrupt had paid dividends of 5s. on one debt and 3s. on the other, (*b*) the existing proofs exceeded £433, but, if these were replaced by a proof for £105, it could be claimed that 10s. in the pound had been paid, (*c*) this was not a compliance with the condition of discharge. His Honour Deputy Judge Rowley Elliston observed that the application was for the benefit of the bankrupt, and not of any creditor, and must therefore be refused. This decision followed in *Re Tallerman, ex parte Rooney* (1888), 36 W.R. 864.

THE CONSTITUENTS OF FRAUDULENT PREFERENCE.

(*Continued from* 75 Sol. J. 169.)

II.

Payment under pressure (even from a friend) may prevent a transaction from being a fraudulent preference, as shown by the recent case of *In re Belcher* at Ipswich County Court. The bankrupt had been friendly with the respondent, whose accounts showed that, between September, 1928, and June, 1930, she had lent him £979, of which he repaid £441 by the end of 1929, and £104 on the 26th June, 1930, leaving a balance (plus interest) of £469. On the 28th June, 1930, the bankrupt borrowed £140, and he repaid £100 and £40 on the 4th and 5th July, respectively, but he was adjudicated bankrupt on the 20th August, 1930—his deficiency being £21,062. The trustee therefore claimed repayment of the £140 under the Bankruptcy Act, 1914, s. 44 (1), but the respondent's case was that there was no case to answer, as the trustee had not only to establish (1) that the payment was within the prescribed period, and (2) that the debtor was unable to pay his debts as they became due (both of which were admitted), but also (3) that the dominant motive was to prefer the creditor. His Honour Deputy Judge Rowley Elliston held that the loan was a purely temporary affair, to be repaid in a few days, and was entirely separate (in the mind and action of the respondent) from her contemporary running account with the bankrupt. The latter felt that he was under an enforceable obligation to repay, and did so (in the belief that it was a debt due) under pressure from the creditor. There was therefore no fraudulent preference, and the application was dismissed, with costs.

ITALY ABOLISHES JURIES.

The abolition of trial by jury in Italy and the substitution of a system of trial by judges assisted by lay assessors is an innovation which will doubtless be watched with interest all over the world. It has often been suggested that in England the method of trial by judge alone with a technical assessor, at present confined to Admiralty practice in the High Court and to Workmen's Compensation cases in the County Court, might be extended with advantage in numerous other directions. There is a good deal that is attractive in this suggestion, and it would be possible to indicate many classes of cases in which a technical expert on the bench would be able to guide the court to a proper solution of problems upon which expert witnesses on either side were unable to agree. We do not for one moment, however, believe in the idea (to be carried out in Italy) that lay assessors to assist judges in criminal cases would be of any value in substitution for juries. Our view is that the lay assessor is only of use in a civil cause; and we are disposed to think that the want of this may account for a good deal of the tendency to arbitrate of which so much is to be heard nowadays.

Forensic Fiction.

THE STRANGE CASE OF A TESTATOR AND HIS DISAPPROVAL OF MARRIAGE.

Once upon a time there lived a CRUSTY OLD BACHELOR who lived in an expensive flat which cost £750 (including rates and taxes) per annum, and he was looked after by a FAITHFUL VALET and a TRUSTED FEMALE COOK AND A CHARLADY who came twice a week to turn out the rooms.

When the time approached for the CRUSTY OLD BACHELOR to JOIN HIS FATHERS in the FAMILY VAULT he added a codicil to his will that the FAITHFUL VALET should receive the income from £500 invested in 5 per cent. War Loan so long as he should remain a BACHELOR, and that the TRUSTED FEMALE COOK should receive the income from a like amount invested in Conversion Loan. Should the FAITHFUL VALET forget himself so far as to marry, then the TRUSTED FEMALE COOK should receive the income from the 5 per cent. War Loan, and should the TRUSTED FEMALE COOK take unto herself a HUSBAND THEN the FAITHFUL VALET would be rewarded by getting her income from the Conversion Loan. Soon after this the obituary notice of the crusty old bachelor appeared, and he was duly buried in the family vault by his expectant nephews, who were annoyed that the income of £1,000 was left away from the family, and two of them were burdened with being TRUSTEES.

Ere long (as the poets say) their hopes arose when they heard that both the FAITHFUL VALET and the TRUSTED FEMALE COOK had forgotten themselves and had married each other.

An Originating Summons was speedily taken out, and the case came on before an elderly learned bachelor judge of the Chancery Division of the High Court.

After expressing his approval of the crusty old bachelor's (hereinafter called "the testator") will and pointing out that it was marriage that kept his learned brothers so busy in the Probate and Divorce Division when they might have been helping him on important matters such as the application of the rule in *Shelley's Case*, or the infringement of the rule against perpetuities in a trust, he regretted that the capital did not fall into residue, but that the income from the 5 per cent. War Loan should go to the FEMALE COOK, who no longer could be trusted, and that income from the Conversion Loan should go to the VALET, NO LONGER FAITHFUL, and the writ should not have been issued as the codicil was clear, and that further the trustees should pay the costs as a wedding present to the HAPPY COUPLE.

Moral: One cannot trust even a learned bachelor Chancery judge, and one should provide for the Cats' Home if you want to leave money away from expectant nephews.

Correspondence.

"The Essential Aspirate."

Sir,—Your reference in "The Essential Aspirate" (In Lighter Vein) to the late Mr. Justice Channel reminds me of a tale my father (admitted 1862) used to tell.

Mr. Channel was engaged in the Admiralty Court, the ship being "The Helen."

Counsel opposing Mr. Channel made no mistake in the name of the ship, but the latter described the ship as "The Elen"—the judge, desiring to take an accurate note, asked Mr. Channel's opponent whether the ship was "Helen" or "Ellen." The reply was: "Well, my Lord, when she left Dover she was 'Helen,' but she lost the 'H' in the chops of the Channel."

Croydon. HY. TERRELL PEARD.
27th April.

Assent by Personal Representatives.

Sir,—Referring to "A Conveyancer's Diary" in your issue of the 25th April, may I submit that, although an assent by personal representatives in their own favour may not be strictly necessary, it is, at all events in the great majority of cases, very desirable. Unless such an assent is made, it will almost inevitably happen that the will will be brought on to the title, and the scheme of the "New Conveyancing" seems to contemplate that this shall be avoided; indeed, a reference to the specimen abstracts of title in the 6th Sched. to the L.P.A. will show that in all cases where the testator has died since the commencement of the Act the will is carefully kept off the abstract. As regards case (1) considered by your contributor, where a testator has devised land to trustees, who are also executors, upon trust for sale, Form No. 9 in the 5th Sched. to the L.P.A. is in point and not only contains the trust for sale, but also gives the names of the persons who have power to appoint new trustees of the assent, thus obviating all necessity for referring to the will. As regards case (2), where the personal representatives of a deceased tenant for life are also the trustees of the settlement, and, as such, entitled to have the land vested in them, either as trustees for sale under the settlement or under s. 36 of the S.L.A., reference may be made to specimen No. 2 of the abstracts of title; here X and Y, the executors of the tenant for life in regard to the settled land, assent to the vesting of the settled land in themselves on trust for sale, the five daughters of the tenant for life having become entitled as tenants in common in tail in equal shares. Case (3), where the personal representative is himself beneficially entitled to the land; here an assent is desirable so that on a sale the vendor may convey "as beneficial owner" without a reference being made to the will to prove that he is such in fact.

In view of the everyday importance of the question, perhaps some of your other readers may be inclined to give their views.

West Kirby, Cheshire. J. BROCKLEHURST.
3rd May.

Grazing Rights over Golf Course (II).

Sir,—A suggestion made to you by a subscriber that the term "golf links," used in a reply to a "Point in Practice," at p. 218 (28th March, 1931), should be exclusively appropriated to seaside courses, seems to be unsupported by any clear authority. "Webster's Complete English Dictionary" defines "links" as being a Scots term for the windings of a river and the ground lying along them. "Murray's Oxford Dictionary" (apart from substituting "stream" for "river") agrees with this definition, but also describes "links" as (1) comparatively level or gently undulating sandy ground near the seashore, covered with turf, coarse grass, etc.; (2) the ground on which golf is played, often resembling that described in (1). The accuracy of the last statement may be doubted at the present time, but, under "golf," the same dictionary mentions "course" as one of the words found in combination with "golf," whereas "golf links" is described in heavy type as the ground on which golf is played, without mention of any special situation. A restriction in the use of the term "links" would also cause difficulty in the case of a seaside course not on sea level, but on top of the cliffs. The anomalous result would be that this (on your subscriber's argument) should be called a "golf-course," although not situated inland.

6th May. YOUR CONTRIBUTOR.

Obituary.

MR. T. A. WHITE.

Mr. Thomas Armstrong White, Assistant Registrar of the Divorce Court, died on Friday, the 1st May, in London, in his sixty-sixth year. He was educated at Berkhampstead, and Hertford College, Oxford, and, before being called to the Bar in 1900, was for a time an Assistant Master at Bedford School. He was a pupil with the late Sir Hugh Fraser, and subsequently with Mr. J. Priestley, K.C., but after joining the Oxford Circuit he practised in the Probate and Divorce Court, in 1925 being appointed Assistant Registrar at Somerset House. He had a great capacity for friendship and hard work.

MR. D. W. ELEY.

The death occurred suddenly on Wednesday, the 29th April, of Mr. Douglas Wells Eley, solicitor, Market Drayton, a member of the firm of Warren, Upton & Garside of that town. Arriving at business as usual that morning he was later found dead in the firm's head offices. He was formerly associated with Messrs. Sproston & Sons, Newcastle-on-Tyne, and had for some time been Deputy Coroner for a division of Shropshire, Deputy Registrar of Market Drayton County Court and Deputy Magistrates' Clerk.

MR. J. C. WARREN, M.A.

Mr. John Crosby Warren, solicitor, senior partner of the firm of Warren & Allen, Nottingham, died suddenly on Tuesday, the 28th April, at the age of seventy-nine. The son of the late Mr. John Warren, he was a member of an old Nottingham family and had practised in Nottingham for many years. He was Hon. Secretary of the Nottingham Blind Institution for nearly forty years, in addition to which he took an active interest in the work of the R.S.P.C.A. and kindred organisations. He was admitted in 1877 and was a member of The Law Society.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Executor's Right of Retainer.

Q. 2201. X recently died insolvent, having appointed Y and Z (strangers) his executors. Y is a creditor of the estate whose debt exceeds the value of the visible assets which consist mainly of a leasehold shop and premises with the goodwill, trade fixtures and book debts. It seems from the decisions in *Re Rhoades* [1899] 2 Q.B. 347, and *Pulman* v. *Meadows* [1901] 1 Ch. 233, that Y as executor, can retain against other creditors all assets which are actually or constructively in his possession at the time of his receiving notice of a petition for an administration order, and from the decision in *Re Gilbert* [1898] 1 Q.B. 282, that where the debt exceeds the assets and the assets are "in the possession" of the executor, they may be retained in specie. We ask you to advise what acts are necessary to constitute "possession" for this purpose in respect of (*a*) the leasehold premises; (*b*) the business; and (*c*) the book debts. Can the executors be said to have possession before they have proved?

A. An executor's title dates from the death, although he has no right of action till he has proved. It is considered clear from the cases mentioned that Y can take possession of the shop and movable assets and claim his right of retainer, the exercise of which may as a matter of precaution be evidenced by a statement in writing of intention to exercise it. He should, of course, prove the will as soon as possible. The commencement of proceedings for administration or even an order will not prejudice him: see *Re Belham; Richards* v. *Yates* [1901] 2 Ch. 52, and cases there cited. Even as against the official receiver in an administration in bankruptcy the exercise of the right as to assets actually taken possession of seems good in the authority of *Re Rhoades*. As regards book debts however, it would seem they must be either collected or sold before retainer can be exercised: *Re Crompton; Norton* v. *Crompton* (1885), 30 Ch. D. 15, quoted in *Re Gilbert*.

Leaseholds—Covenant to erect Fence—Assignee—Waiver.

Q. 2202. In 1924 A.B. took a 999 years' building lease and (*inter alia*) for himself and his assigns covenanted "forthwith to fence off the premises along the northern boundary with a good and substantial flag fence or wall." A.B. did not carry out the above-mentioned covenant. In about 1926 A.B. filed his petition in bankruptcy, and later the Official Receiver assigned the lease to C.D. Ever since the said assignment the lessor has from time to time called upon C.D. to fence off the land pursuant to the said covenant, but he has not done so. Ground rent has been paid regularly and accepted without reference to the broken covenant. Is this a covenant "having reference to the subject-matter of the lease," which seems to be the question which has to be answered to decide whether it runs with the land or not? I cannot find any case relating to fencing off. It would cost about £100 to comply with the covenant. Would a King's Bench action for £100 damages be an appropriate form of remedy, or would a Chancery action be more appropriate?

A. It seems quite clear that, assigns being specially named, the covenant was one binding an assignee within the rules laid down in *Spencer's Case*, 1 Smiths L.C., but a covenant to erect a building within a particular time is broken once for all at the expiration of that time and is not converted into a continuing covenant by a general covenant to repair all buildings, etc. The consequence is, that if there is a waiver of forfeiture by acceptance of rent after knowledge of breach, the right of forfeiture is gone: *Stephens* v. *Junior Army and Navy Stores* [1914] 2 Ch. 516. Although there is no direct authority to this effect, it is conceived the same applies, after the lapse of a reasonable time, to a covenant to build forthwith, unless the lessor can show the time was extended at the request of the lessee. On the same reasoning it would seem that C.D. is not liable as the breach did not occur during his holding of the lease, as it is clear law that an assignee is not liable for past breaches. If, however, he is liable, the damages are measured by the injury to the reversion, which must be infinitesimal. If, therefore, we are right in applying the principle of *Stephens* v. *Junior Army and Navy Stores* to the present case, the ground landlord has no effective remedy.

Improved Ground Rent—Landlord died Intestate—No Letters of Administration.

Q. 2203. A by a lease demised certain property to B for a term of years at a ground rent of £6 5s. and B by an underlease demised the property to C for the said term, less seven days, at an increased ground rent of £7. Acting for C, who wishes to sell his interest, application was made to B's solicitors for a licence, and they reply that B died abroad some years ago leaving her daughter her next-of-kin, but they are uncertain if they can get into touch with her. No letters of administration to B's estate have been taken out, but the ground rent of £7 has been paid to the solicitors who acted for B, and they have paid the head ground rent of £6 5s. thereout and say they have accumulated the balance of 15s.

(1) Should C continue paying the rent to the solicitors who acted for B, now deceased?

(2) Can C refuse to pay the rent to the solicitors and apply to the court for a vesting order under L.P.A., s. 146 (4) if A takes proceedings for non-payment of the rent?

(3) Can C take any steps to compel the next-of-kin, if she can be found, to take out letters of administration to B's estate?

A. (1) C can refuse to pay rent to any one other than the personal representative of B, or some one authorised by the personal representative. If B died intestate the leasehold reversion is pending administration vested in the President of the Probate Division: A. of E.A., 1925, s. 9.

(2) C can only apply for a vesting order where the ground landlord (A, or his assignee) is proceeding by action or otherwise to enforce the right of re-entry for forfeiture on account of non-payment of the head rent or breach of covenant in the head lease.

(3) No.

Trade Union's Liability for Unemployment Benefit.

Q. 2204. A is a member of a mutual aid society registered as a trade union, and one of the rules of which provides for certain benefits being paid to members in the event of loss of work owing to circumstances beyond their control. A so lost his work, but the society decline to pay him benefit and the question of suing now arises. Is the contract enforceable at law, or does it come within s. 4 of the Trade Union Act, 1871? The cases on the point appear to be contradictory. It cannot be alleged that any of the objects of the association render it illegal.

A. The fact that the mutual aid society is registered as a trade union does not necessarily bring the contract within the Trade Union Act, 1871, s. 4, and so deprive the member of his right to sue. The Trade Union Act Amendment Act, 1876, extends the definition so as to include trade unions, whether they are in restraint of trade or not, as pointed out by Lord Robson in *Russell* v. *Amalgamated Society of Carpenters and Joiners* (1912), 28 T.L.R. at p. 277. It therefore becomes necessary to consider the rules of the society, the effect of which is stated in the last paragraph of the question, i.e., that it is not an unlawful association at common law, through not being in restraint of trade. The presumption, therefore, is that there is no rule corresponding to No. 48 of the Amalgamated Society of Carpenters, *supra*, viz., that a member (under threat of fine or expulsion) shall comply with the decision of the executive committee as to strikes. Any such rule is a dominant rule and makes all other rules unenforceable, as held in *Mudd* v. *General Union of Operative Carpenters and Joiners* (1910), 26 T.L.R. 518. Assuming that there is no such rule, and that the conclusion in the last paragraph of the question is correct, the member is entitled to maintain his action against the society. The latter may of course have a good defence on the ground that the loss of work was not owing to circumstances beyond the member's control, but was due to circumstances for which he was responsible.

Partner's Property Conveyed on Trust for Sale—Death of Partner.

Q. 2205. A, at the time of his death in September, 1926, was the owner of a leasehold shop and business carried on thereon. A died intestate and letters of administration were granted to his wife, B, and his only child, C. Shortly after the death of A an assignment was executed by B and C whereby (after reciting the lease, the death of A, letters of administration, that B and C were the only persons interested in the estate of A) B and C as personal representatives of A assigned unto themselves all the premises comprised in the lease. The assignment declared that B and C (in the assignment called "the partners") should stand possessed of the premises upon trust for sale and of the proceeds "in trust for the partners and other persons if any who from time to time become entitled under any partnership articles to the partnership assets and according to their shares or interest in those assets." At the same time as the above assignment a partnership deed dealing with the above property and business was entered into by B and C and the deed provided that on the death of B the whole of the partnership assets should become the property of C. B has recently died intestate, without any other estate, and letters of administration have not yet been taken out. C, as the sole surviving partner, has agreed to sell the leasehold shop and the goodwill. Can C, in view of his beneficial interests, assign alone, or must a new trustee be appointed to act with him to receive the purchase money? "Prideaux," Vol. I, page 564, suggests a new trustee is necessary. "The Encyclopædia of Forms," No. 4 Supplement, page 982, suggests that the sole surviving partner can sell alone. Your views and a reference to a suitable precedent, if possible, will be appreciated.

A. We think it is quite clear that as the title stands at present a purchaser can require the appointment of another trustee. If C is the only child of B as well as of the testator, i.e., if B is not a stepmother, C on taking out administration, could, it is considered, make a good title alone, after assenting to the vesting in himself of B's share of the proceeds of sale, but unless C as trustee has also conveyed to himself as beneficial owner so as to bring the case within s. 23 of L.P.A., 1925, a purchaser could still probably insist on the appointment of a new trustee and a conveyance under the trust for sale by virtue of s. 42. The safest course to pursue is to appoint a trustee in the place of B, for which any ordinary precedent will suffice.

Reviews.

The Housing Acts, 1925-1930. By Arthur Henderson, of the Middle Temple and North-Eastern Circuit, and Leslie Maddock, of the Inner Temple and Midland Circuit, Barristers-at-Law. London: Eyre & Spottiswoode. 27s. 6d. net.

This is a treatise on the Housing Act, 1930, in which the text of that statute is annotated and explained, together with the Housing Act, 1925 (the "Principal" Act) as amended. The volume also contains other unrepealed housing legislation and a large number of unofficial circulars and statutory rules and orders. The really effective portion of the book (apart from its bulky Appendices, which are chiefly useful for reference, the contents not being annotated) is to be found in the first 150 pages, which embodies an introductory summary of the Act of 1930 by the editors, a lengthy "practical survey" by Mr. E. G. Culpin on housing generally, and the text of the Act with annotations. The notes on the Act are well written and show careful consideration of its provisions; but we are disposed to regret that a volume of 500 pages should be required to convey to the world the material in these 150 pages. We should also have liked to see the Housing Act, 1925, annotated. We seem to get an impression from the book that (apart from the first portion) it was hurried in preparation. There are a number of enactments printed as unrepealed; and in any future edition careful revision of these will be very necessary. One good feature of the book before us is the Index, which appears to be accurate and well arranged.

Elements of the Law of Contract. By A. T. Carter, K.C. Seventh edition. 1931. Crown 8vo. pp. xvi and (with Index) 290. London: Sweet & Maxwell, Ltd. 12s. 6d. net.

Mr. Carter's book on the law of contract was for many of us in our student days the favourite or least unpalatable text-book on the subject. His method of appending pithy digests of leading cases in illustration of the principles he is discussing has been, and doubtless will continue to be, the life-preserver of many a pass man. The higher flier will also find his mental processes stimulated.

Those who have had the privilege of attending Mr. Carter's lectures cannot fail to have come away with the impression that Mr. Carter is a stylist before everything, and Appendix C of this book comprises a note on the correct use of the terms "inferred contract" and "implied contract." In another Appendix the Sale of Goods Act, 1893, is printed most conveniently for the frequent reference which all thorough students of the law of contract must make to its provisions.

The Law Relating to Documents of Title to Goods. By Henry G. Purchase, LL.D. (Lond.), of the Middle Temple and Northern Circuit, Barrister-at-Law. 8vo. pp. xxiv and (with Appendices and Index) 261. London: Sweet and Maxwell, Ltd. 15s. net.

The learned author of this book is to be congratulated not only upon having obtained his Doctrinate for the University of London by means of it, but also upon having to a large extent broken new ground and written a treatise upon a subject which has hitherto been neglected. That is no mean achievement.

The arrangement of the book is excellent. After a short historical survey the learned author deals in turn with "The function of a Mate's Receipt," passing on to bills of lading, dock warrants and other commercial documents having reference to goods. Dr. Purchase then traces the development of the law on the subject and has instructive chapters on "The earlier Factors Acts" and "Disposition of Goods by means of the Employment of a Document of Title," in the latter stating the law as it stands under the Factors Act, 1889, with a consideration of the leading recent authorities. The law regarding rights of lien and stoppage

in transitu is given a separate chapter which cannot fail to be of practical value.

A very interesting and instructive part of the book is that devoted to the position with regard to documents of title to goods in the United States, Canada and Newfoundland, the law in those countries being stated with commendable conciseness and contrasted with our own.

There is much useful matter in the Appendices, which in addition to the text of relevant statutes contain "The Warsaw Rules, 1928," and some forms in common use. The curious in such matters will be interested in a copy of a bill of lading dated so far back as 1390 with the comments of an eminent authority upon it.

This work has evidently cost the learned author much time and trouble in research and will be found of value not only to the lawyer, but to all merchants and those engaged in commercial life, to whom the subject treated of is of such great importance.

The printing and make-up of the book are good and the index appears to be adequate.

The French Civil Code. By HENRY GACHARD. Paris: The Lecram Press. London: Stevens & Sons, Ltd. 21s. net.

To attempt an adequate review of this volume would be to write a treatise on that great monument of legislation, the French Code, which is the basis of half the world's law.

Many English lawyers have to study French law, for it is the common law of some of our dependencies. Moreover, in the ever-tightening links of nation with nation, knowledge of foreign legal systems becomes more frequently necessary.

Here is a careful translation, well printed, and fairly strongly bound for use. It contains the additions and amplifications of the busy years since the last edition appeared, and the appreciative preface by M. Raymond Poincaré is right in congratulating the author on the excellence of his work.

Law relating to Aliens. By WILLIAM EVAN DAVIES, LL.B. (Honours), A.L.A.A. Stevens & Sons, Limited. 1931. 10s. net.

This book combines the functions of short historical treatise and concise text-book on the law of aliens, and should be equally of use to the student of history as well as to the legal practitioner. The scheme of the work is in three parts. Book one, comprising the first 104 pages, is devoted to historical treatment of the subject, being a survey of aliens in England from early times down to the present day, dealing with their social, political and industrial influences on English life. Book two, pp. 107-250 the major part, deals with the law, and book three, pp. 253-307, with practice. There is also an appendix on the subject of "The Gypsies."

The information and references collected here in rather an unexplored field of law and history must be the result of protracted search and the consultation of many authorities.

Books Received.

The Conveyancer. Vol. XVI. No. 11. May, 1931. A Monthly Review devoted to matters connected with Conveyancing and Commercial and Mercantile Documents. London: Sweet & Maxwell, Ltd. 3s. net.

Police Law. An Arrangement of Law and Regulations for the Use of Police Officers. CECIL H. MORIARTY, O.B.E., B.A., LL.B., Assistant Chief Constable, Birmingham. Second Edition. 1931. Crown 8vo. pp. xx and (with Index) 396. London: Butterworth & Co. (Publishers), Ltd. 5s. net.

The Law of Compensation for Land acquired under Compulsory Powers. C. A. CRIPPS, M.A., B.C.L. (now Lord Parmoor). 1931. Seventh Edition by ROBERT ABERCROMBY GORDON, M.A., LL.M., K.C. Royal 8vo. pp. lxxxi and (with Index) 804. London: Stevens & Sons, Ltd. 42s. net.

Notes of Cases.

High Court—Chancery Division.

In re **Banham; Westminster Bank** *v.* **Attorney-General.**

Farwell, J. 15th April.

WILL — CONSTRUCTION — RESIDUARY GIFT — "PERSONAL PROPERTY"—GIFT TO CHANCELLOR OF EXCHEQUER.

This was a summons which raised a question as to the meaning of a residuary bequest to the Chancellor of the Exchequer. By his will dated December, 1928, Henry George Banham, who died on 20th January, 1929, appointed the Westminster Bank, Limited, his executors, and bequeathed to Mrs. Edith Russ an annuity of £3 a week with remainder "to the Chancellor of the Exchequer for the reduction of the National Debt at the time, or for adding to the fund for future reduction at his will." The testator then made certain pecuniary legacies and bequeathed his watch and chain and silver cigarette case to a friend, and gave "the residue of my property not personal" to the Chancellor of the Exchequer. There was no real or leasehold property. This summons was taken out by the bank to have it decided, (1) whether the gift in remainder of £3 a week was a gift of a perpetual annuity and whether the Chancellor of the Exchequer would be entitled to be paid the capital value of the annuity, and (2) whether the testator's personal estate was effectually disposed of by the residuary bequest.

FARWELL, J., in giving judgment, said that the summons raised a curious point. The term "personal property" had a well-defined meaning unless controlled by the context, and he could not shut his eyes to the fact that the will was drawn by the testator himself without legal advice. There was an almost irresistible context here which excluded the strict legal meaning of personal property. The testator intended to give to the Chancellor of the Exchequer the whole of his personal estate except the legacies and his personal belongings subject to the annuity to Mrs. Russ. As the Chancellor would take the whole personal estate, it was not necessary to decide the question as to the effect of the remainder of the annuity after Mrs. Russ's death.

COUNSEL: *P. M. Walters; Stafford Crossman; N. C. Armitage.*

SOLICITORS: *Murray, Hutchins & Co.; The Treasury Solicitor.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

R. *v.* **Editor, Printer and Publisher of the "Surrey Comet": *Ex parte* Baldwin.**

Lord Hewart, C.J., Avory and Humphreys, JJ.

20th April.

CONTEMPT OF COURT—PUBLICATION IN NEWSPAPER—TRIAL OF ACCUSED PREJUDICED.

The court made absolute a rule *nisi* calling upon Frank Newling Jones, the editor of the *Surrey Comet*, to show cause why a writ of attachment should not issue against him for contempt of court in respect of a certain report which appeared in the issue of the newspaper of the 8th April, which, it was alleged, was calculated to prejudice the fair trial of William Gordon Baldwin, who was under remand on a charge of murdering Sarah Ann Isaacson at Richmond, Surrey. It was said that the editor, who accepted full responsibility, wished to express the most sincere regret and apology for the publication of anything which was in the least likely to interfere with the administration of justice.

Lord HEWART, C.J., said that the point was whether something had been published which might prejudice the trial of an accused man. In the article complained of there was a long account, carefully got together, which included at least

three statements of grave prejudice against the man who afterwards was charged. A newspaper was entitled to report, fairly and accurately, what took place in open court, but, in the present case, *ex concessio*, nothing had taken place in court, and there was no question of reporting proceedings in court. The newspaper had busied itself in the deplorable enterprise of collecting materials which might be thought to be of interest concerning that which had been done and the person who, it was expected, would be accused. Once a newspaper departed from a fair and accurate report of what was actually stated in open court it not only took a great risk itself, but it also imperilled the unfortunate man, guilty or innocent, who was charged. For what had been done in the present case there was no conceivable excuse. His lordship added that if that kind of cynical indifference for the interests of accused persons continued to be displayed, cases would not be met by the imposition of fines. He hoped that the case would have the effect of attracting the attention of professional journalists to the utter impropriety of an enterprise of that character. The rule would be made absolute against the editor of the newspaper, the costs paid as between solicitor and client, and the editor would be fined £500.

COUNSEL: *Sir Thomas Inskip*, K.C., and *Wilfrid Lewis*, for the Editor; *Alban Gordon* supported the rule.

SOLICITORS: *Soames, Edwards & Jones*; *F. G. Huggett*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Council of the Pharmaceutical Society of Great Britain *v.* Watkinson.

Talbot and Finlay, JJ. 24th April.

POISONS — SALE IN AUTOMATIC MACHINE — ALLEGED STATUTORY BREACH — PENALTY — POISONS AND PHARMACY ACT, 1908 (8 Edw. 7, c. 55), s. 3 (1).

Appeal from a decision of Judge Crawford, sitting at the Wood Green County Court.

The plaintiffs, the present respondents, the council of the Pharmaceutical Society of Great Britain, claimed in the county court from the defendant, the present appellant, H. R. Watkinson, a duly registered chemist and druggist, a penalty of £5, under s. 3 (1) of the Poisons and Pharmacy Act, 1908, in respect of the sale of lysol in an automatic machine outside the defendant's premises. That section provides: "Any person who, being a duly registered pharmaceutical chemist or chemist and druggist, carries on the business of a pharmaceutical chemist or chemist and druggist, shall, unless in every premises where the business is carried on the business is *bonâ fide* conducted by himself or some other duly registered pharmaceutical chemist or chemist and druggist . . . be guilty of an offence under s. 15 of the Pharmacy Act, 1868 (which imposes a penalty of £5)." The defendant denied liability under the statute. The county court judge found, *inter alia*, the following facts: The defendant had placed an automatic machine so close to his premises that for all practical purposes it formed part of them, with the object of inviting the public to purchase therefrom the articles which it contained. By himself, or by his servants or agents, he placed, or caused, *inter alia*, bottles of lysol to be placed in the automatic machine. The lysol contained in those bottles was a very dangerous poison. As the lysol could be obtained at times when the shop was closed, no supervision was exercised over such sale. By selling and by offering for sale various articles contained in the automatic machine, the defendant carried on the business of a chemist or druggist at that machine, and at all hours when the shop was shut offered the bottles of lysol for sale to the public through the medium of the machine. The county court judge held, that the defendant carried on the business of a chemist and druggist through the medium of the automatic machine, and that he was liable under the section. The defendant now appealed.

TALBOT, J., said that there was no reflection on the defendant, either in his conduct of his business or his loyalty to the society. It was a case not without difficulty due to the attempt to apply a section, the object of which was one thing, to the prohibition of another thing. So far as he could judge the section was directed to securing that in every chemist's shop there should be a qualified and responsible head who personally conducted the business, it did not appear to be in any way directed to the manner in which the business was conducted. He was of opinion that, whether or not there was any other way of reaching what undoubtedly appeared on the face of it to be a public mischief, the sale was not an offence under s. 3 (1) of the Poisons and Pharmacy Act, 1908, nor could that section be construed as prohibiting it. The appeal would be allowed.

FINLAY, J., delivered judgment to the same effect.

COUNSEL: *George Pollock*, for the appellant; *H. Glyn-Jones*, for the respondent.

SOLICITORS: *C. H. Kirby*; *Thompson, Quarrell and Attneave*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Parker *v.* Davis and Others.

Lord Hewart, C.J., Avory and Humphreys, JJ. 29th April.

GAMING—LAWFUL GAMES—NOT A COMMON GAMING HOUSE—GAMING HOUSES ACT, 1854 (17 & 18 Vict., c. 38), s. 4.

Case stated by the Southampton justices.

Informations were preferred by William Henry Parker, Chief Inspector of Police, under s. 4 of the Gaming Houses Act, 1854, against George James Davis, George Reginald Davis and Cyril Henry Davis, the owners of a place known as "Fun Fair," 74, East-street, Southampton, alleging that they knowingly and wilfully permitted it to be opened for the purpose of unlawful gaming, and against William James Leach, as manager of the premises. At the hearing of the informations the following facts were proved or admitted: The place was open to the public and contained automatic machines of different types operated by coins placed into the appropriate slots. Only one of the types of machines on the premises permitted the operator to win anything. That machine was called the "Circle of Skill," and was worked by the operator putting a penny in the slot and thereby releasing a steel ball which fell into a circular plate, studded with spikes, which could be moved by the operator in an endeavour to enable him to direct the ball into one of three winning cups. If the operator was successful he got his penny back and another ball to continue play. There was no evidence that chance predominated or that the chances were not alike favourable to all the players. The justices held that the playing of games on the premises, irrespective of the lawfulness of the games so played, constituted the place a common gaming house. They convicted the present appellants and fined them 20s. each. They now appealed.

LORD HEWART, C.J., said that it was sufficient to say that there was no authority to support the view which the justices had expressed. The appeal would be allowed.

AVORY, J., gave judgment to the same effect.

HUMPHREYS, J., concurred.

COUNSEL: *J. G. Trapnell*, K.C., and *R. H. Bayford*, for the appellants; *W. E. Lloyd*, for the respondent.

SOLICITORS: *Speechly, Mumford & Craig*, for *Lamport, Bassitt & Hiscock*, Southampton; *Sharpe, Pritchard & Co.*, for the *Town Clerk*, Southampton.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

FOUR YEARS FOR A SOLICITOR.

A sentence of four years' penal servitude was, says *The Isle of Man Daily Times*, passed at Manchester Assizes on Tuesday, 28th April, on John Arnold Houghton (forty-four), solicitor, Manchester, who pleaded guilty to charges of forgery, uttering forged documents and fraudulent conversion of clients' money.

Parliamentary News.

Progress of Bills.

House of Lords.

Agricultural Land (Utilisation) Bill.
Report. [7th May.
Architects (Registration) Bill.
Committee. [7th May.
Local Authorities (Publicity) Bill.
Read a First Time. [6th May.
Marriage (Prohibited Degrees of Relationship) Bill.
Read a First Time. [6th May.
Pharmacy and Poisons Bill [H.L.].
Read the Third Time. [30th April.
Public Offices (Sites) Amendment Bill.
Commons Resolutions agreed to. [30th April.
Small Landholders and Agricultural Holdings (Scotland) Bill.
Read a Second Time. [30th April.
The Widows, Orphans, and Old Age Contributory Pensions Bill.
Read a First Time. [6th May.
Workmen's Compensation Bill.
Read the First Time. [28th April.

House of Commons.

Agricultural Marketing Bill.
In Committee. [7th May.
Ancient Monuments Bill [H.L.].
As amended (in the Standing Committee) considered; Read the Third Time and passed. [30th April.
Architects (Registration) Bill.
As amended in the Standing Committee, Read the Third Time and passed. [17th April.
Criminal Justice (Amendment) Bill.
Read the First time. [28th April.
Employment Returns Bill.
Read a Second Time. [17th April.
Housing (Rural Workers) Amendment Bill.
Read a Second Time. [21st April.
Leasehold Enfranchisement Bill.
Motion for Second Reading. [1st May.
Local Authorities (Publicity) Bill.
Read the Third Time. [1st May.
London Passenger Transport Bill.
Referred to Select Committee. [27th March.
Marriage (Prohibited Degrees of Relationship) Bill.
As amended (in the Standing Committee) considered; read the Third Time and passed. [1st May.
National Industrial Council Bill.
Second Reading deferred till Friday, 8th May. [30th April.
Palestine and East African Loans Bill.
Read a Second Time and committed. [30th April.
Petroleum Bill.
Read the First Time. [22nd April.
Representation of the People (No. 2) Bill.
In Committee. [23rd April.
Rural Amenities Bill.
Withdrawn. [14th April.
Salvation Army Bill.
In Committee. [30th April.
Shops (Sunday Trading Restriction) Bill.
Read the First Time. [29th March.
Summary Jurisdiction (Appeals) Bill.
Read a Second Time and committed. [24th April.
Sunday Performances (Regulation) Bill.
Read a Second Time. [20th April.
Town and Country Planning Bill.
In Committee. [7th May.
Vaccination Bill.
Read the First Time. [29th March.
Widows, Orphans, and Old Age Contributory Pensions Bill.
Considered in Committee; reported without amendment; read the Third Time and passed. [30th April.
Wills and Intestacies (Family Maintenance) Bill.
Committee stage concluded. [29th April.
Workmen's Compensation Bill.
As amended (in the Standing Committee) considered; Read the Third Time and passed. [24th April.
Works Council Bill.
Second Reading deferred till Friday, 8th May. [30th April.
Sharing Out Clubs (Regulation) Bill.
Read a Second Time. [24th April.

House of Commons.

Questions to Ministers

RENT RESTRICTIONS ACTS.

Captain WALLACE asked the Minister of Health whether he intends to bring forward any legislation to amend the Rent Restrictions Acts during the present Session.

Mr. GREENWOOD: I would remind the hon. and gallant Member that the operation of these Acts is under the consideration of an Inter-Departmental Committee appointed by myself, and by the Secretary of State for Scotland, and amending legislation must clearly await their report. [30th April.

BUILDING BYE-LAWS.

Sir K. WOOD asked the Minister of Health whether any local authorities controlling building by local Acts of Parliament have adopted the Ministry of Health model bye-laws.

Mr. GREENWOOD: So long as an Act of Parliament controlling building remains in force, bye-laws covering the same ground cannot be made. Outside London, there are now few of the areas in which building was formerly controlled by local Act where the local authorities have not, either by Bill or by a Provisional Order of the Minister of Health, procured the modification of their old Acts, so as to be able to follow the more flexible method of bye-laws. I am always prepared, within the limits of my powers, to assist local authorities to adopt the more modern and convenient system. [30th April.

HABITUAL CRIMINALS.

Mr. FREEMAN asked the Secretary of State for the Home Department whether he will consider the desirability of setting up a committee to inquire into the treatment and methods of dealing with the habitual criminal, particularly with a view to securing powers to review such cases periodically.

The UNDER SECRETARY OF STATE FOR THE HOME DEPARTMENT (Mr. Short): The appointment, composition and terms of reference of the Committee were announced in the press on the 24th inst. The terms of reference are wide enough to enable the Committee, should it think fit, to recommend the periodical reviewing of sentences on recidivists or habitual offenders. The question whether new powers would be required in order to enable such review would depend on the nature of the recommendation. [30th April.

SCOTLAND YARD (PRESS BUREAU).

Sir K. WOOD asked the Home Secretary the functions of the Press Bureau at Scotland Yard; how many persons are employed in it; and what is the approximate annual cost of the bureau.

Mr. SHORT: The Press Bureau staff have instructions to make every endeavour to meet the legitimate demands of the press for news, so far as this can be done without divulging secret or confidential information, or information the publication of which would be improper on other grounds. The bureau is open from 6 p.m. to 2 a.m. on Sundays and 10 a.m. to 2 a.m. on weekdays. The staff numbers four, but these officers do not devote their whole time to this work. The total annual salaries of the four men amount to approximately £1,475, and though it is not possible to apportion their time precisely, it would be approximately correct to assign two-thirds of the amount, say £983, to their "news service" function. The only other expenditure is an amount which it would be difficult to assess, for accommodation, heat and light.

Sir K. WOOD: As regards the first part of the hon. Gentleman's answer, dealing with functions, is the Home Secretary giving further consideration to the observations of the Lord Chief Justice on this matter?

Mr. SHORT: Yes, sir; my right hon. Friend is so doing. But I might add that he is going to send a communication to the right hon. Gentleman, and also to the ex-Attorney-General, on that matter.

Mr. DAY: Can my hon. Friend say how long this bureau has been in existence?

Mr. SHORT: Between ten and twelve years. [30th April.

MINISTERS AND LAW OFFICERS (SALARIES).

Sir K. WOOD asked the Chancellor of the Exchequer the nature of the proposal that the Law Officers have made for a reduction of their emoluments; what is the estimated amount of the proposed annual reduction; and whether the same is retrospective and also a free gift to the Exchequer

for the forthcoming year, or will involve a permanent annual reduction of such emoluments.

The FINANCIAL SECRETARY TO THE TREASURY (Mr. Pethick-Lawrence): I am not in a position at present to make any further announcement on this subject.

INDUSTRIAL ASSURANCE COMMITTEE.

Replying to Sir BASIL PETO, the FINANCIAL SECRETARY TO THE TREASURY (Mr. Pethick-Lawrence) said: I am informed that the committee at its first meeting on 30th April decided to hold its sittings in private. The evidence will be published as soon as practicable after it has been given. [5th May.

MOTOR VEHICLES (HEADLIGHTS).

Mr. REMER asked the Minister of Transport if his attention has been called to an accident at Meriden, Warwickshire, on 16th April, involving the death of two persons; if he will consider making regulations to make overhanging loads on lorries more clearly lighted; will he issue either regulations or recommendations as to the proper conduct of motorists as to dipping or putting out of headlights; and if his attention has been called to the new regulations on this subject now made compulsory in France.

The PARLIAMENTARY SECRETARY TO THE MINISTRY OF TRANSPORT (Mr. Parkinson): According to my information, this accident was due not to an overhanging load but to the driver of the vehicle concerned being dazzled by the headlights of an oncoming car. My right hon. Friend has had the question of making regulations with regard to headlights under consideration for some time and a draft of these regulations is being circulated to motoring organisations and to other organisations interested in the matter and also to the Press. His attention has been drawn to the regulations now in force in France with regard to headlights. [5th May.

PATENTS AND DESIGNS.

Replying to Mr. REMER (for Mr. HANNON), Mr. W. GRAHAM said the report of the Departmental Committee on the Patents and Designs Acts is under consideration. There has already been some reduction in the delay in examining the complete specifications filed with applications for patents. Arrangements have been made to secure a further increase in the examining staff by an open competitive examination which has been announced for July next and it is hoped that the present improvement will continue at a steady and appreciable rate. [5th May.

Societies.

Law Association.

The usual monthly meeting of the directors was held at The Law Society's Hall, on Thursday, 30th April, Mr. C. D. Medley in the chair. The other directors present were: Mr. J. D. Arthur, Mr. E. B. V. Christian, Mr. D. T. Garrett, Mr. H. Ross Giles, Mr. G. D. Hugh-Jones, Mr. P. E. Marshall, Mr. C. F. Pridham, Mr. Frank S. Pritchard, Mr. J. E. W. Rider, Mr. John Venning, Mr. William Winterbotham, Mr. W. M. Woodhouse, and the Secretary, Mr. E. E. Barron. A sum of £126 was voted in relief, three new members were elected, and the preliminary arrangements for holding the Annual General Court early in June under the Presidentship of Lord Blanesburgh were made, and the annual report was settled subject to the auditors completing their audit for the year, and other general business was transacted.

Gray's Inn.

GRAND DAY.

Thursday, the 30th of April, being the Grand Day of Easter Term at Gray's Inn, the Treasurer (Master Sir Cecil Walsh, K.C.) and the Masters of the Bench entertained at dinner the following guests: The Right Rev. The Lord Bishop of Portsmouth, The Right Hon. Lord Lloyd, G.C.S.I., G.C.I.E., D.S.O., The Treasurer of the Hon. Society of Lincoln's Inn (The Right Hon. Sir Frederick Pollock, Bart., K.C.), The Right Hon. Sir Ellis Hume-Williams, Bart., K.B.E., K.C., The Hon. Mr. Justice McCardie, Admiral of the Fleet Sir Roger Keyes, Bart., G.C.B., C.M.G., K.C.V.O., D.S.O., R.N., Sir H. Trustram Eve, K.B.E., Sir Reginald Blomfield, R.A., Sir Charles Eves, Sir Landon Ronald, Colonel Sir Henry Lyons, R.E., F.R.S., The Venerable Archdeacon V. F. Storr, M.A., Mr. Cecil Whiteley, K.C., and Professor E. B. Poulton, F.R.S.

The Benchers present, in addition to the Treasurer, were: The Right Hon. Sir Dunbar Plunket Barton, Bart., K.C., Mr. Herbert F. Manisty, K.C., Mr. Arthur Gill, The Right Hon. Lord Atkin, Sir Montagu Sharpe, K.C., The Right Hon. Lord Justice Greer, Sir Alexander Wood Renton, G.C.M.G., K.C., Mr. W. Clarke Hall, Mr. R. E. Dummett, The Right Hon. Lord Thankerton, The Right Hon. Lord Greenwood, K.C., Mr. Bernard Campion, K.C., Mr. J. W. Ross-Brown, K.C., Mr. James Whitehead, K.C., Mr. A. Andrewes-Uthwatt, Mr. Noel Middleton, Mr. N. L. C. Macaskie, K.C., Sir Albion Richardson, C.B.E., K.C., with the Preacher (The Rev. Canon W. R. Matthews, D.D.), and the Under-Treasurer (Mr. D. W. Douthwaite).

The City of London Solicitors Company.

At the (recent) monthly meeting of the court, held at the Guildhall, the Master, Mr. F. M. Guedalla, on behalf of the court, presented to the retiring clerk, Mr. A. T. Cummings, a George III silver salver, bearing on the reverse the following inscription:—

"Presented to Arthur Temple Cummings by the Master, Past Masters, Wardens and Members of the Court of Assistants of the City of London Solicitors Company as a token of their appreciation of the devoted services rendered by him during his clerkship to the Company from 1920 to 1931."

The inscription is surrounded by the autograph signatures of the members of the court.

Legal Notes and News.

Honours and Appointments.

The Board of Trade have appointed Mr. C. J. PYKE, Official Receiver in Bankruptcy at Stoke-on-Trent, to be Official Receiver in Bankruptcy at Canterbury, as from 1st May, 1931.

Mr. CHARLES F. MONCKTON, Solicitor, Guildhall, E.C.2, has been elected Master of The Armourers and Braziers' Company. Mr. Monckton was admitted in 1887.

Mr. WILLIAM S. BROOKE, LL.M., Solicitor, Deputy Clerk to the Weston-super-Mare Urban District Council, has been appointed to a similar position under the Barking Town Urban District Council.

Mr. A. G. FLINTOFF, Assistant Solicitor in the Department of the Town Clerk of South Shields (Mr. J. Moore Hayton, B.A.), has been appointed Assistant Town Clerk of Bootle.

Mr. JAMES E. SPICKETT, solicitor, registrar of the Pontypridd, Ystrad and Porth County Courts, has also been appointed Registrar and High Bailiff of the County Courts of Aberdare and Mountain Ash, in the place of the late Mr. William Kenshole.

Mr. JOHN FRANCIS WILLIAM JAMES, I.C.S., has been appointed to be one of the Judges of the High Court of Judicature at Patna in the place of Sir Leonard C. Adami, I.C.S.

Sir KENNETH JAMES BEATTY (Chief Justice of the Bahama Islands) has been appointed to be the Chief Justice of Gibraltar.

The Board of Trade made the following appointments, viz.:—Mr. JOSEPH BRUCE SIMMONS, solicitor, Reading, to be the fee paid Official Receiver for the reconstituted Bankruptcy District of the County Courts holden at Oxford, Aylesbury, Banbury, Newbury, Reading and Windsor; Mr. JOHN LANGMAN POLAND to be Official Receiver for the London (North) Suburban Bankruptcy District; Mr. CLARENCE ROY WATERER to be Official Receiver for the London (South) Suburban Bankruptcy District, to take effect from 1st May, 1931; Mr. REGINALD BETTS to be Official Receiver for the Bankruptcy District of the County Court holden at Newcastle-on-Tyne, in succession to Mr. R. K. Clark, promoted; and Mr. PERCY MANLY MILWARD Assistant Official Receiver in Bankruptcy at Cardiff, to be Official Receiver in Bankruptcy at Stoke-on-Trent, as from 1st May.

Mr. HERBERT DU PARCQ, K.C., has been elected a Bencher of the Middle Temple.

Mr. JOHN BELL, Assistant Solicitor in the office of Mr. F. G. Webster, Town Clerk of the City of Carlisle, has now been appointed Deputy Town Clerk, whilst Mr. J. BULMAN succeeds him as Assistant Solicitor.

Mr. JAMES MUNRO MATHESON has been appointed Sheriff Clerk of Buteshire to fill the vacancy caused by the death of Mr. T. W. Alexander.

Professional Announcements.

(2s. per line.)

Messrs. HAMILTON, FULTON, SANT & JONES, solicitors, Salisbury and Amesbury, have now opened an office at Andover.

Professional Partnerships Dissolved.

SYDNEY JACOMB-HOOD and EDWARD FREDERIC MEDCALF, solicitors, formerly of 27, Clement's-lane, in the City of London and afterwards of 28, Buckingham-gate, Westminster, S.W.1 (Jacomb-Hood & Medcalf, successors to John Northhouse Keshan), dissolved by mutual consent as from 1st January, 1931. The business will be carried on in the future by E. F. Medcalf.

WILLIAM CULROSS and EDWARD HAWORTH WHITTELL HOLT, solicitors, 9, Mincing-lane, in the City of London (Culross & Holt), dissolved by mutual consent as from 31st March, 1931. W. Culross will continue to act as legal adviser to the assurance company for whom the late firm acted, otherwise the business will be carried on in the future by E. H. W. Holt.

Wills and Bequests.

Col. WILFRID GIBSON, V.D., Solicitor, Hexham (Clerk to the Hexham and Bellingham Justices), left estate of the gross value of £8,499, with net personalty £7,363.

Mr. Charles Arthur Haythorne Montagu, Solicitor, of Long Ashton, and of Messrs. Latchams & Montagu, left estate of the gross value of £73,411, with net personalty £66,864.

Mr. Arthur Marshall Lister, Solicitor, of Thavies Inn, E.C., of Holdenby, Eastwood, Essex, and Western-terrace, Falmouth, who died on 15th February, left estate of the gross value of £7,852, with net personalty £6,928. He left £200 as executor and his agency with the Law Fire Insurance Society, and all commission due or accruing to his managing clerk, John Leonard Courtney; and £100 to his clerk, John Calnan.

Mr. John Macdonald Mackay, LL.D., of Tain, Ross and Cromarty, for thirty years Professor of History at the University of Liverpool, who died on 8th March, aged seventy-four, left personal estate in Great Britain valued at £6,201.

Sir Aubrey Vere Symonds, K.C.B., of Buckingham-gate, S.W., lately Permanent Secretary of the Board of Education, who died on 24th March, aged fifty-six, left estate of the gross value of £4,896, with net personalty £3,782.

Mr. George Francis Berney, solicitor, of Wimbledon, S.W., sole partner in Messrs. Corsellis & Berney, of Norfolk-street, Strand, and of Wandsworth and Balham, who died on 3rd March, aged seventy-one, left estate of the gross value of £51,116, with net personalty £15,567. He dated his will 23rd December, 1927, "with parting love to the dear ones at home." The document is headed "My wishes," and opens "Before leaving to-morrow for my holiday, I have been able to arrange for the conduct of my professional, official, and domestic affairs during my absence. But I have not been able to make a will. I am intestate." The document, however, was validly executed, and has been admitted to probate as a will. He goes on: If I had left a will it would have given a striking legacy to Mr. W. K. Wilson, to whose inestimable ability and amazing energy the greater part of the present prosperity of my firm is mainly due. I am sure that the other members of my staff will realise how much I and they have profited by his unexampled labours and almost inceivable (*sic*) efforts. . . . Energy, good feeling, the sense of humour, and absolute loyalty are amongst the other factors that would be more or less essential for success in a suburban practice such as that of my firm. I want my trustees to give a handsome present to Mr. Mathews, Mr. Slater, Mr. Taylor, and Mr. Hill, for their past services at Wandsworth, to Mr. Barton, for the like at Balham, and to Mr. Geare, for the like at the town office. Mr. Geare will, I hope, be retained at the town office. I attach high value to his work and to his loyalty. I want all other members of the staff to receive presents suitable in the opinion of my trustees—to each of whom he left £100. His will concludes: I shall die with, as I hope, the same disdain of death that my devoted Norman showed in his last hours when he led the great charge at Khawillfeh, bayonetted the gunners, captured the guns, lit a cigarette, and gave his life for England . . . give my love please to all friends who include every member of my staff.

Mr. Charles Churchill Branch, of Chester Square, S.W., barrister-at-law, who died on 2nd February, aged sixty-three, left estate of the gross value of £119,949, with net personalty £119,373.

TAR FIRE DAMAGE.

At Ilkeston County Court on the 21st April, before His Honour Judge Longson, three claims for damages to property were preferred against the Ilkeston Corporation arising out of the spilling of boiling tar from a tar-spraying machine.

It was agreed by the parties to abide by the judgment in the first case in relation to the other two claims.

Evidence was given in the case in which Mr. J. R. M. Thompson's executors claimed £80 5s. The other plaintiffs were James Wood, Ltd., who claimed £15 6s., and the Trustees of the Erewash Valley & District Friendly Society, whose claim was for £12 10s.

Mr. Nigel Robinson, counsel for the plaintiffs, explained that corporation workmen were engaged in tar spraying Chapel-street, and when turning the machine containing the boiling tar, the horse slipped, the machine backed against the kerb, and some of the liquid was spilled and caught fire. Streams of molten tar poured down the gutter, and damage by fire and smoke was caused to plaintiffs' property.

Defendants pleaded that they were acting under statutory authority, and they were not liable in the absence of negligence.

Mr. Robinson stated that he proposed to prove negligence, and if he failed would argue the applicability of the principle laid down in *Rylands* v. *Fletcher*.

Giving judgment for the plaintiffs, His Honour said it was in the exercise of their judgment in turning the machine in a narrow street, with an awkward gradient, that the corporation servants failed, and were guilty of negligence. There would be judgment for the plaintiffs for the amount claimed, with costs, and for the plaintiffs by consent, with costs, in the other two cases.

LAW ON INDUSTRIAL ASSURANCE.

The Chancellor of the Exchequer has decided to appoint a committee to examine and report on the law and practice relating to industrial assurance, and to assurance on the lives of children under ten years of age, including the question whether any amendment of the law, or any addition to it, is desirable.

The committee is constituted as follows:—Sir Benjamin Cohen, K.C. (chairman), Mr. John G. Archibald, Miss Dorothy Evans, M.A., Mr. Fred Kershaw, Mr. Steuart Macnaghten (President of the Faculty of Actuaries), Sir Alfred Watson, K.C.B., Mr. J. J. Wills, and Sir John Fischer Williams, K.C.

Mr. B. K. White, Assistant Registrar of Friendly Societies, will act as secretary.

Sir Benjamin Cohen, who is sixty-nine years of age, is the eldest son of the late Right Hon. Arthur Cohen, K.C., and was educated at Rugby and Balliol College, Oxford. He was called to the Bar at the Inner Temple in 1887, took silk in 1914, and became a Bencher in 1923.

THE LAW OF THE QUEUE.

In the Dublin District Court recently, a youth named John Kinsella was fined 5s. on a charge of refusing to take his rightful place in a queue which was formed to buy tickets for the Grand National Sweepstake. The man at the door of the sweepstake office refused to admit Kinsella on the ground that he did not line up with the rest of the public, and finally the police were called in.

PUBLIC RECORD OFFICE.

The Search Rooms of the Public Record Office, Chancery-lane, will be closed for cleaning purposes from 14th to 19th September, inclusive. Special arrangements will, however, be made for the transaction of urgent legal business.

JUSTICES' CLERKS' FEES.

Under the Criminal Justice Administration Act the fees chargeable by justices' clerks in non-indictable adjudications were fixed at 4s. per case. The Criminal Justice (Amendment) Bill, the text of which has been issued, proposes to substitute for the flat rate of 4s., fees of 2s. 6d. for summons and copy, 1s. for each oath administered, according to the number of witnesses called, and 2s. 6d. for conviction. The memorandum to the Bill states that since the inclusive charge of 4s. was fixed there has been a great increase in the work of justices' clerks and their staffs, and these fees are not sufficient to meet the salaries, while local authorities do not receive the penalties recovered in many cases. The Bill was presented on the 28th April by Sir Henry Cautley and supported by Sir John Withers, Mr. Galbraith, Mr. Meller, Sir Walter Greaves-Lord, K.C., Mr. Marjoribanks, and Lord Castlestewart.

THE RESTORATION OF GRAY'S INN.

The south side of Gray's Inn-square, Gray's Inn, is undergoing restoration, and when the work is finished it will look approximately as it did in Elizabethan days.

The western half of this side of the square is the north façade of the Hall, the erection of which was begun in 1557. Beside the Hall are the Benchers' Common Room and a portion of the Library. To the east of these again stands the Chapel, which, although extensively restored, is in its fabric little, if at all, later than the Hall. A century or more ago the front of the Hall was given a coat of stucco and a porch was built at its north-west corner. The porch was without artistic merit and not only did it tend to obscure the face of the Hall, but one of the old buttresses was destroyed to make room for it. The stucco was removed by the Benchers' orders about forty years ago, so that all the Tudor brickwork has since been visible. The Chapel is slabbed with thin stone—a comparatively modern addition, like its unsightly porch and sham battlements.

Sir Edwin Cooper, A.R.A., the architect, is now engaged in restoring the brickwork of the Chapel, the Benchers' Common Room, and the Library, with brick to match that of the Hall. He is removing the imitation battlements from the Chapel, and substituting for them a stone coping, which will be uniform across the whole width of the square. The porches in Hall and Chapel are giving place to doors, in keeping with the earlier appearance of the buildings, and the buttresses of the Hall are being restored. Behind the new door to the Hall will be disclosed an archway that belonged to an earlier Hall, pulled down as ruinous in 1557. This archway bore the arms of Charles Brandon, Duke of Suffolk, who, under Henry VIII, was one of the most influential men in the kingdom.

In Gray's Inn-square itself a large grass lawn has been laid down in place of the old gravel. A formal setting has been designed by Sir Edwin Cooper to take a centre feature, the form of which has not yet been decided.

A LAWYER-SCULPTOR.

In one of the galleries of the Royal Academy there stands a statuette group entitled "Apollo and Daphne." The name of the sculptor is given as The Hon. Gilbert Coleridge, who until ten years ago was Assistant Master of the Crown Office.

Since his retirement from the law, Mr. Coleridge, a son of the famous Lord Chief Justice Coleridge, has pursued sculpture as a hobby. In his house at Kew he has a studio, and this year he ventured to send a specimen of his skill to the Academy. No one seeing it would guess that the artist is quite unable to draw, has no knowledge of anatomy, and uses no models.

It was entirely by accident that Mr. Coleridge discovered that he had a natural talent for modelling. He was staying a few years ago in a house where there were children, and, seeing them playing with plasticine, he picked up a lump of the material and soon modelled a woman's head. From that he went on to more ambitious works, and to-day has a remarkable collection of statues and groups.

His principal critics are his wife and his housekeeper, in whose judgment he has great confidence.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE	EMERGENCY ROTA.	APPEAL COURT No. 1.	MR. JUSTICE EVE. Non-Witness.	MR. JUSTICE MAUGHAM. Witness Part II.
M'nd'y May 11	Mr. Blaker	Mr. Andrews	Mr. Ritchie	Mr.*Jolly
Tuesday .. 12	More	Jolly	Blaker	*Ritchie
Wednesday 13	Ritchie	Hicks Beach	Jolly	*Blaker
Thursday . 14	Andrews	Blaker	Ritchie	Jolly
Friday 15	Jolly	More	Blaker	Ritchie
Saturday .. 16	Hicks Beach	Ritchie	Jolly	Blaker

DATE	MR. JUSTICE BENNETT. Witness Part I.	MR. JUSTICE CLAUSON. Witness Part II.	MR. JUSTICE LUXMOORE. Witness Part I.	MR. JUSTICE FARWELL. Non-Witness.
M'nd'y May 11	Mr.*Blaker	Mr.*More	Mr. Andrews	Mr. Hicks Beach
Tuesday .. 12	Jolly	*Hicks Beach	*More	Andrews
Wednesday 13	*Ritchie	*Andrews	Hicks Beach	More
Thursday . 14	Blaker	More	*Andrews	Hicks Beach
Friday 15	*Jolly	*Hicks Beach	More	Andrews
Saturday .. 16	Ritchie	Andrews	Hicks Beach	More

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The WHITSUN VACATION will commence on Saturday, the 23rd day of May, 1931, and terminate on Tuesday, the 26th day of May, 1931, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 21st May, 1931.

	Middle Price 6 May 1931.	Flat Interest Yield.	Approximate Yield with redemption
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	93	4 6 0	—
Consols 2½%	59	4 4 9	—
War Loan 5% 1929-47	103xd	4 17 1	—
War Loan 4½% 1925-45	101xd	4 9 1	4 8 6
Funding 4% Loan 1960-90	94½	4 4 8	4 5 2
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	97	4 2 6	4 3 3
Conversion 5% Loan 1944-64	105	4 15 3	4 14 6
Conversion 4½% Loan 1940-44	103	4 7 5	4 5 6
Conversion 3½% Loan 1961	81½	4 5 11	—
Local Loans 3% Stock 1912 or after	68	4 8 3	—
Bank Stock	264½	4 10 9	—
India 4½% 1950-55	80½	5 11 10	6 0 6
India 3½%	60½	5 15 8	—
India 3%	50½	5 18 10	—
Sudan 4½% 1939-73	100	4 10 0	4 11 0
Sudan 4% 1974	90	4 8 11	4 12 0
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	86½	3 9 4	3 18 0
Colonial Securities.			
Canada 3% 1938	92	3 5 3	4 8 6
Cape of Good Hope 4% 1916-36	96	4 3 4	4 16 0
Cape of Good Hope 3½% 1929-49	85	4 2 4	4 15 7
Ceylon 5% 1960-70	103	4 17 1	4 16 6
*Commonwealth of Australia 5% 1945-75	70	7 2 10	7 3 11
Gold Coast 4½% 1956	99	4 10 11	4 11 4
Jamaica 4½% 1941-71	98	4 11 10	4 12 3
Natal 4% 1937	96	4 3 4	4 18 0
*New South Wales 4½% 1935-1945	50	9 0 0	9 15 0
*New South Wales 5% 1945-65	55xd	9 1 10	9 2 10
New Zealand 4½% 1945	92½	4 17 4	5 4 6
New Zealand 5% 1946	98½	5 1 6	5 1 3
Nigeria 5% 1950-60	104	4 16 2	4 14 2
*Queensland 5% 1940-60	62	8 1 4	8 8 3
South Africa 5% 1945-75	102½	4 17 7	4 17 5
*South Australia 5% 1945-75	70	7 2 10	7 14 6
*Tasmania 5% 1945-75	73	6 17 0	7 1 6
*Victoria 5% 1945-75	67	7 9 3	8 0 0
*West Australia 5% 1945-75	70	7 2 10	7 3 7
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	66	4 10 11	—
Birmingham 5% 1946-56	105	4 15 3	4 15 6
Cardiff 5% 1945-65	103	4 17 1	4 15 9
Croydon 3% 1940-60	75	4 0 0	4 11 0
Hastings 5% 1947-67	102	4 18 0	4 17 6
Hull 3½% 1925-55	83	4 4 4	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	77	4 10 11	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	57xd	4 7 9	—
London City 3% Consolidated Stock after 1920 at option of Corporation	67xd	4 9 7	—
Metropolitan Water Board 3% "A" 1963-2003	66	4 9 7	—
Do. do. 3% "B" 1934-2003	68	4 8 3	—
Middlesex C.C. 3½% 1927-47	88	3 19 7	4 12 0
Newcastle 3½% Irredeemable	76	4 12 1	—
Nottingham 3% Irredeemable	65	4 12 4	—
Stockton 5% 1946-66	103	4 17 1	4 16 6
Wolverhampton 5% 1946-56	103	4 17 1	4 14 10
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83½	4 15 10	—
Gt. Western Railway 5% Rent Charge	100½	4 19 6	—
Gt. Western Rly. 5% Preference	88	5 13 8	—
L. & N.E. Rly. 4% Debenture	75	5 6 8	—
L. & N.E. Rly. 4% 1st Guaranteed	67	5 19 5	—
L. & N.E. Rly. 4% 1st Preference	47½	8 8 6	—
L. Mid. & Scot. Rly. 4% Debenture	77½	5 3 3	—
L. Mid. & Scot. Rly. 4% Guaranteed	68	5 17 8	—
L. Mid. & Scot. Rly. 4% Preference	47½	8 8 6	—
Southern Railway 4% Debenture	82	4 17 7	—
Southern Railway 5% Guaranteed	97½	5 2 7	—
Southern Railway 5% Preference	83½	5 19 9	—

*The prices of Australian stocks are nominal—dealings being now usually a matter of negotiation.